

HOUSE BILL No. 2062

By Committee on Federal and State Affairs

1-22

9 AN ACT concerning alcoholic beverages; amending K.S.A. 41-210, 41-
10 211, 41-304, 41-307, 41-308, 41-601, 41-602, 41-701, 41-708, 41-717,
11 41-718, 41-724, 41-725, 41-726, 41-729, 41-806, 41-901, 41-905, 41-
12 1001, 41-1002, 41-1004, 41-1101, 41-1102, 41-1122, 41-1123, 41-1125,
13 41-2604, 41-2610, 41-2614, 41-2632, 41-2637, 41-2641, 41-2642, 41-
14 2643, 41-2705, 41-2706, 41-2707, 41-2709, 41-2722, 41-2726, 79-4101,
15 79-4102, 79-4103, 79-4104, 79-41a01, 79-41a02, 79-41a04, 79-41a06,
16 79-41a07 and 79-41a08 and K.S.A. 2008 Supp. 41-102, 41-104, 41-209,
17 41-308b, 41-712, 41-805, 41-2611, 41-2645, 41-2701, 41-2704, 41-
18 2728, 79-3606, 79-4108 and 79-41a03 and repealing the existing sec-
19 tions; also repealing K.S.A. 41-403 and 41-2712 and K.S.A. 2008 Supp.
20 41-2702, 41-2703 and 41-2708.

21

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

23 Section 1. K.S.A. 2008 Supp. 41-102 is hereby amended to read as
24 follows: 41-102. As used in ~~this~~ *the Kansas liquor control* act, unless the
25 context clearly requires otherwise:

26 (a) (1) "Alcohol" means the product of distillation of any fermented
27 liquid, whether rectified or diluted, whatever its origin, and includes syn-
28 thetic ethyl alcohol ~~but does not include~~.

29 (2) "Alcohol" *does not mean* denatured alcohol or wood alcohol.

30 (b) (1) "Alcoholic liquor" means alcohol, spirits, wine, beer and every
31 liquid or solid, patented or not, containing alcohol, spirits, wine or beer
32 and capable of being consumed as a beverage by a human being, ~~but shall~~
33 ~~not include~~.

34 (2) "Alcoholic liquor" *does not mean* any cereal malt beverage.

35 (c) "Beer" means a beverage, containing more than ~~3.2%~~ 4% alcohol
36 by weight, obtained by alcoholic fermentation of an infusion or concoction
37 of barley, or other grain, malt and hops in water and includes beer, ale,
38 stout, lager beer, porter and similar beverages having such alcoholic
39 content.

40 (d) "Caterer" has the meaning provided by K.S.A. 41-2601, and
41 amendments thereto.

42 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
43 2701, and amendments thereto.

- 1 (f) (1) “Cereal malt beverage retailer” means any person who sells or
2 offers for sale any cereal malt beverage for use or consumption and not
3 for resale in any form.
- 4 (2) “Cereal malt beverage retailer” does not mean a liquor retailer or
5 any person licensed under the club and drinking establishment act.
- 6 ~~(g)~~ (g) “Club” has the meaning provided by K.S.A. 41-2601, and
7 amendments thereto.
- 8 ~~(g)~~ (h) “Director” means the director of alcoholic beverage control
9 of the department of revenue.
- 10 ~~(h)~~ (i) “Distributor” means the person importing or causing to be
11 imported into the state, or purchasing or causing to be purchased within
12 the state, alcoholic liquor for sale or resale to *liquor* retailers licensed
13 under ~~this~~ *the Kansas liquor control* act or cereal malt beverage for sale
14 or resale to *cereal malt beverage* retailers licensed under ~~K.S.A. 41-2702,~~
15 ~~and amendments thereto~~ *the Kansas cereal malt beverage act*.
- 16 ~~(i)~~ (j) “Domestic beer” means beer which contains not more than 8%
17 alcohol by weight and which is manufactured in this state.
- 18 ~~(j)~~ (k) “Domestic fortified wine” means wine which contains more
19 than 14%, but not more than 20% alcohol by volume and which is man-
20 ufactured in this state without rectification.
- 21 ~~(k)~~ (l) “Domestic table wine” means wine which contains not more
22 than 14% alcohol by volume and which is manufactured without rectifi-
23 cation or fortification in this state.
- 24 ~~(l)~~ (m) “Drinking establishment” has the meaning provided by K.S.A.
25 41-2601, and amendments thereto.
- 26 ~~(m)~~ (n) “Farm winery” means a winery licensed by the director to
27 manufacture, store and sell domestic table wine and domestic fortified
28 wine.
- 29 (o) “Licensee” means any cereal malt beverage retailer, any liquor
30 retailer and any person licensed under the club and drinking establish-
31 ment act.
- 32 (p) (1) “Liquor retailer” or “retailer” means any retailer licensed
33 pursuant to the Kansas liquor control act.
- 34 (2) “Liquor retailer” or “retailer” does not mean a microbrewery or
35 farm winery.
- 36 ~~(n)~~ (q) “Manufacture” means to distill, rectify, ferment, brew, make,
37 mix, concoct, process, blend, bottle or fill an original package with any
38 alcoholic liquor, beer or cereal malt beverage.
- 39 ~~(o)~~ (r) (1) “Manufacturer” means every brewer, fermenter, distiller,
40 rectifier, wine maker, blender, processor, bottler or person who fills or
41 refills an original package and others engaged in brewing, ferment-
42 ing, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
43 beverage.

- 1 (2) “Manufacturer” does not include a microbrewery or a farm
 2 winery.
- 3 ~~(p)~~ (s) “Microbrewery” means a brewery licensed by the director to
 4 manufacture, store and sell domestic beer.
- 5 ~~(q)~~ (t) “Minor” means any person under 21 years of age.
- 6 ~~(r)~~ (u) “Nonbeverage user” means any manufacturer of any of the
 7 products set forth and described in K.S.A. 41-501, and amendments
 8 thereto, when the products contain alcohol or wine, and all laboratories
 9 using alcohol for nonbeverage purposes.
- 10 ~~(s)~~ (v) (1) “Original package” or “original container” means any bot-
 11 tle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or con-
 12 tainer whatsoever, used, corked or capped, sealed and labeled by the
 13 manufacturer of alcoholic liquor, to contain and to convey any alcoholic
 14 liquor. ~~Original container does not include a sleeve.~~
- 15 (2) “Original package” or “original container” does not mean a sleeve.
- 16 ~~(t)~~ (w) “Person” means any natural person, corporation, partnership,
 17 trust or association.
- 18 ~~(u)~~ (x) “Primary American source of supply” means the manufac-
 19 turer, the owner of *cereal malt beverage* or alcoholic liquor at the time it
 20 becomes a marketable product or the manufacturer’s or owner’s exclusive
 21 agent who, if the *cereal malt beverage* or alcoholic liquor cannot be se-
 22 cured directly from such manufacturer or owner by American wholesal-
 23 ers, is the source closest to such manufacturer or owner in the channel
 24 of commerce from which the product can be secured by American
 25 wholesalers.
- 26 ~~(v)~~ (1) ~~“Retailer” means a person who sells at retail, or offers for sale~~
 27 ~~at retail, alcoholic liquors.~~
- 28 ~~(2) “Retailer” does not include a microbrewery or a farm winery.~~
- 29 ~~(w)~~ (y) “Sale” means any transfer, exchange or barter in any manner
 30 or by any means whatsoever for a consideration and includes all sales
 31 made by any person, whether principal, proprietor, agent, servant or
 32 employee.
- 33 ~~(x)~~ (z) “Salesperson” means any natural person who:
 34 (1) Procures or seeks to procure an order, bargain, contract or agree-
 35 ment for the sale of alcoholic liquor or cereal malt beverage; or
 36 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
 37 beverage, or in promoting the business of any person, firm or corporation
 38 engaged in the manufacturing and selling of alcoholic liquor or cereal
 39 malt beverage, whether the seller resides within the state of Kansas and
 40 sells to licensed buyers within the state of Kansas, or whether the seller
 41 resides without the state of Kansas and sells to licensed buyers within the
 42 state of Kansas.
- 43 ~~(y)~~ (aa) “Secretary” means the secretary of revenue.

1 ~~(z)~~ (bb) (1) “Sell at retail” and “sale at retail” refer to and mean sales
 2 for use or consumption and not for resale in any form and sales to clubs,
 3 licensed drinking establishments, licensed caterers or holders of tempo-
 4 rary permits.

5 (2) “Sell at retail” and “sale at retail” do not refer to or mean sales
 6 by a distributor, a microbrewery, a farm winery, a licensed club, a licensed
 7 drinking establishment, a licensed caterer or a holder of a temporary
 8 permit.

9 ~~(aa)~~ (cc) “To sell” includes to solicit or receive an order for, to keep
 10 or expose for sale and to keep with intent to sell.

11 ~~(bb)~~ (dd) “Sleeve” means a package of two or more 50-milliliter (3.2-
 12 fluid-ounce) containers of spirits.

13 ~~(cc)~~ (ee) “Spirits” means any beverage which contains alcohol ob-
 14 tained by distillation, mixed with water or other substance in solution,
 15 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
 16 such liquors when rectified, blended or otherwise mixed with alcohol or
 17 other substances.

18 ~~(dd)~~ (ff) “Supplier” means a manufacturer of alcoholic liquor or ce-
 19 real malt beverage or an agent of such manufacturer, other than a
 20 salesperson.

21 ~~(ee)~~ (gg) “Temporary permit” has the meaning provided by K.S.A.
 22 41-2601, and amendments thereto.

23 ~~(ff)~~ (hh) “Wine” means any alcoholic beverage obtained by the nor-
 24 mal alcoholic fermentation of the juice of sound, ripe grapes, fruits, ber-
 25 ries or other agricultural products, including such beverages containing
 26 added alcohol or spirits or containing sugar added for the purpose of
 27 correcting natural deficiencies.

28 Sec. 2. K.S.A. 2008 Supp. 41-104 is hereby amended to read as fol-
 29 lows: 41-104. No person shall manufacture, bottle, blend, sell, barter,
 30 transport, deliver, furnish or possess any alcoholic liquor for beverage
 31 purposes, except as specifically provided in ~~this act, the Kansas liquor~~
 32 ~~control act, the Kansas cereal malt beverage act or the club and drinking~~
 33 ~~establishment act or article 27 of chapter 41 of the Kansas Statutes An-~~
 34 ~~notated, except that nothing contained in this the Kansas liquor control~~
 35 act shall prevent:

36 (a) The possession and transportation of alcoholic liquor for the per-
 37 sonal use of the possessor, the possessor’s family and guests except that
 38 the provisions of K.S.A. 41-407, and amendments thereto, shall be ap-
 39 plicable to all persons;

40 (b) the making of wine, cider, *cereal malt beverage* or beer by a per-
 41 son from fruits, vegetables or grains, or the product thereof, by simple
 42 fermentation and without distillation, if it is made solely for the use of
 43 the maker and the maker’s family;

- 1 (c) any duly licensed practicing physician or dentist from possessing
2 or using alcoholic liquor in the strict practice of the medical or dental
3 profession;
- 4 (d) any hospital or other institution caring for sick and diseased per-
5 sons, from possessing and using alcoholic liquor for the treatment of bona
6 fide patients of such hospital or institution;
- 7 (e) any drugstore employing a licensed pharmacist from possessing
8 and using alcoholic liquor in the compounding of prescriptions of duly
9 licensed physicians;
- 10 (f) the possession and dispensation of wine by an authorized repre-
11 sentative of any church for the purpose of conducting any bona fide rite
12 or religious ceremony conducted by such church; ~~or~~
- 13 (g) the sale of wine to a consumer in this state by a person which
14 holds a valid license authorizing the manufacture of wine in this or an-
15 other state and the shipment of such wine directly to such consumer,
16 subject to the following: (1) The consumer must be at least 21 years of
17 age; (2) the consumer must purchase the wine while physically present
18 on the premises of the wine manufacturer; (3) the wine must be for the
19 consumer's personal consumption and not for resale; and (4) the con-
20 sumer shall comply with the provisions of K.S.A. 41-407, and amend-
21 ments thereto, by payment of all applicable taxes within such time after
22 purchase of the wine as prescribed by rules and regulations adopted by
23 the secretary; *or*
- 24 (h) the serving of complimentary alcoholic liquor or cereal malt ~~bev-~~
25 ~~erages~~ *beverage* at fund raising activities of charitable organizations as
26 defined by K.S.A. 17-1760, and amendments thereto, and as qualified
27 pursuant to 26 U.S.C.A. 501(c) and by committees formed pursuant to
28 K.S.A. 25-4142 et seq., and amendments thereto. The serving of such
29 alcoholic liquor *or cereal malt beverage* at such fund raising activities shall
30 not constitute a sale pursuant to ~~this act, the Kansas liquor control act,~~
31 ~~the Kansas cereal malt beverage act or the club and drinking establish-~~
32 ~~ment act or article 27 of chapter 41 of the Kansas Statutes Annotated,~~
33 ~~and amendments thereto.~~ Any such fund raising activity shall not be re-
34 quired to obtain a license or a temporary permit pursuant to ~~this act, the~~
35 ~~Kansas liquor control act, the Kansas cereal malt beverage act or the club~~
36 ~~and drinking establishment act or article 27 of chapter 41 of the Kansas~~
37 ~~Statutes Annotated, and amendments thereto.~~
- 38 Sec. 3. K.S.A. 2008 Supp. 41-209 is hereby amended to read as fol-
39 lows: 41-209. The director shall have the following powers, functions and
40 duties:
- 41 (a) To receive applications for, and to issue and revoke licenses to
42 manufacturers, distributors, nonbeverage users ~~and, liquor retailers and~~
43 *cereal malt beverage* retailers in accordance with the provisions of ~~this~~

- 1 *the Kansas liquor control act and the Kansas cereal malt beverage act;*
 2 (b) to call upon other administrative departments of the state, county
 3 and city governments, sheriffs, city police departments, city marshals, law
 4 enforcement officers and upon prosecuting officers for such information
 5 and assistance as the director deems necessary in the performance of the
 6 duties imposed upon the director by ~~this~~ *the Kansas liquor control act*
 7 *and the Kansas cereal malt beverage act;*
 8 (c) to inspect or cause to be inspected, any premises where alcoholic
 9 liquors ~~or cereal malt beverages~~ are manufactured, ~~distributed or sold or~~
 10 ~~distributed and to inspect or cause to be inspected the premises of a liquor~~
 11 ~~retailer where alcoholic liquor or cereal malt beverage is sold;~~
 12 (d) in the conduct of any hearing authorized to be held by the director
 13 to examine, or cause to be examined, under oath, any person, and to
 14 examine or cause to be examined books and records of any licensee; to
 15 hear testimony and take proof material for the information of the director
 16 in the discharge of such duties hereunder; to administer or cause to be
 17 administered oaths; and for any such purposes to issue subpoenas to re-
 18 quire the attendance of witnesses and the production of books which shall
 19 be effective in any part of this state; and any district court or any judge
 20 of the district court, may by order duly entered, require the attendance
 21 of witnesses and the production of relevant books subpoenaed by the
 22 director, and the court or judge may compel obedience to the order by
 23 proceedings for contempt;
 24 (e) to collect, receive, account for and turn over to the secretary of
 25 revenue all registration and license fees and taxes provided for in ~~this act~~
 26 *the Kansas liquor control act and the Kansas cereal malt beverage act,*
 27 *except for occupation license fees imposed on liquor retailers and cereal*
 28 *malt beverage retailers by cities and counties,* and all other moneys re-
 29 ceived by the director by virtue of the director's office; and
 30 (f) such other powers, functions and duties as are or may be imposed
 31 or conferred upon the director by law.
 32 Sec. 4. K.S.A. 41-210 is hereby amended to read as follows: 41-210.
 33 (a) The director shall propose such rules and regulations as necessary to
 34 carry out the intent and purposes of ~~this~~ *the Kansas liquor control act*
 35 *and the Kansas cereal malt beverage act.* After the hearing on a proposed
 36 rule and regulation has been held as required by law, the director shall
 37 submit the proposed rule and regulation to the secretary of revenue who,
 38 if the secretary approves it, shall adopt the rule and regulation.
 39 (b) ~~It is intended by this act that the director of alcoholic beverage~~
 40 ~~control~~ *The director shall have broad discretionary powers to govern the*
 41 *traffic in alcoholic liquors liquor and cereal malt beverage and to enforce*
 42 *strictly all the provisions of this the Kansas liquor control act and the*
 43 *Kansas cereal malt beverage act in the interest of sanitation, purity of*

1 products, truthful representation and honest dealings in such manner as
2 generally will promote the public health and welfare. All valid rules and
3 regulations adopted under the provisions of ~~this~~ *the Kansas liquor control*
4 act shall be absolutely binding upon all licensees and enforceable by the
5 director ~~of alcoholic beverage control~~ through the power of suspension
6 or revocation of licenses.

7 Sec. 5. K.S.A. 41-211 is hereby amended to read as follows: 41-211.

8 (a) The rules and regulations adopted by the secretary of revenue pur-
9 suant to K.S.A. 41-210, and amendments thereto, shall include rules and
10 regulations:

11 (1) Prescribing the nature, form and capacity of all containers used
12 for alcoholic liquors;

13 (2) prescribing the nature of and the representations to be shown
14 upon the labels attached to the containers and requiring that the labels
15 attached to all original containers or packages of alcoholic liquors sold or
16 offered for sale in this state shall set forth in plain and legible print in the
17 English language the quantity of such liquors, exclusive of the package
18 or cask containing them, in either metric or English measurement;

19 (3) prescribing administrative procedures for the issuance of licenses
20 and the investigation of license applications and providing for advisory
21 recommendations from governing bodies of cities as to *liquor retailers'*
22 *and cereal malt beverage* retailers' licenses and for hearings on
23 applications;

24 (4) prescribing conditions for the issuance of duplicate licenses in lieu
25 of those lost or destroyed;

26 (5) prescribing those violations of the rules and regulations for which
27 licenses shall be suspended or revoked;

28 (6) establishing standards of purity, sanitation and honest advertising
29 and representations;

30 (7) requiring the destruction of stamps upon containers which have
31 been opened;

32 (8) in the case of manufacturers and distributors of alcoholic liquors
33 *or cereal malt beverages*, requiring the labels attached to all containers ~~of~~
34 ~~such liquors~~ *thereof* which are intended for sale in this state to set forth,
35 in plain legible print in the English language, the name and kind of al-
36 coholic liquors *or cereal malt beverages* contained therein, together with
37 their alcoholic content, and if a blended product (except wine) to so state,
38 except that, if the director deems it unnecessary to show the alcoholic
39 content of beer on labels of containers of beer, the alcoholic content shall
40 not be required to be shown thereon;

41 (9) establishing procedures and conditions under which minors may
42 be engaged in programs or systems encouraging compliance with the
43 provisions of laws relating to the sale of alcoholic liquor and cereal malt

1 beverages to a person under 21 years of age or under the legal age for
2 consumption of cereal malt beverages as authorized by K.S.A. 41-727a,
3 41-2652 and 41-2727, and amendments thereto. Such regulations shall
4 include provisions which require that such person used in any such pro-
5 gram or system to be: (A) *Be* at least 18 years of age and not more than
6 19½ years of age; (B) exhibit a youthful appearance; (C) carry only one
7 piece of identification, which shall be a valid form of identification; *and*
8 (D) *be* truthful in interactions with licensees; except if asked, such person
9 may deny working with law enforcement officials.

10 It shall be an absolute defense in any civil proceeding or criminal pros-
11 ecution if any such program or system does not comply with the proce-
12 dures and conditions required by such rules and regulations;

13 (10) providing for such other details as are necessary or convenient
14 to the administration and enforcement of this act.

15 (b) The secretary of revenue may adopt rules and regulations pur-
16 suant to K.S.A. 41-210, and amendments thereto establishing:

17 (1) Standards of manufacture of alcoholic liquors and ~~beer, regardless~~
18 ~~of its alcoholic content~~ *cereal malt beverages*, not inconsistent with federal
19 laws, in order to insure the use of proper ingredients and methods in the
20 manufacture and distribution thereof; and

21 (2) standards, not inconsistent with federal law, for the proper label-
22 ing of containers or barrels, casks or other bulk containers or bottles of
23 alcoholic liquor and ~~beer, regardless of its alcoholic content,~~ *cereal malt*
24 *beverages* manufactured or sold in this state.

25 Sec. 6. K.S.A. 41-304 is hereby amended to read as follows: 41-304.
26 Licenses issued by the director shall be of the following classes: (a) Man-
27 ufacturer's license; (b) spirits distributor's license; (c) wine distributor's
28 license; (d) beer distributor's license; (e) *liquor* retailer's license; (f) mi-
29 crobrewery license; (g) farm winery license; ~~and~~ (h) *cereal malt beverage*
30 *retailer's license, as provided in the Kansas cereal malt beverage act; and*
31 (i) nonbeverage user's license.

32 Sec. 7. K.S.A. 41-307 is hereby amended to read as follows: 41-307.
33 A beer distributor's license shall allow:

34 (a) The wholesale purchase, importation and storage of beer *and ce-*
35 *real malt beverage*.

36 (b) The sale of beer to:

37 (1) Licensed caterers;

38 (2) beer distributors licensed in this state;

39 (3) *liquor* retailers, *temporary permit holders*, clubs and drinking es-
40 tablishments, licensed in this state, except that such distributor shall sell
41 a brand of beer only to those *liquor* retailers, *temporary permit holders*,
42 clubs and drinking establishments of which the licensed premises are
43 located in the geographic territory within which such distributor is au-

1 thORIZED to sell such brand, as designated in the notice or notices filed
2 with the director pursuant to K.S.A. 41-410 and amendments thereto;
3 and

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

6 (c) The sale of cereal malt beverage to:

7 (1) Beer distributors licensed in this state;

8 (2) *liquor retailers*, clubs and drinking establishments, licensed in this
9 state, ~~and retailers licensed under K.S.A. 41-2702 and amendments~~
10 ~~thereto temporary permit holders and cereal malt beverage retailers li-~~
11 ~~censed under the Kansas cereal malt beverage act~~, except that such dis-
12 tributor shall sell a brand of cereal malt beverage only to those ~~such clubs,~~
13 ~~drinking establishments and retailers of which the liquor retailers, clubs,~~
14 ~~drinking establishments, temporary permit holders and cereal malt bev-~~
15 ~~erage retailers whose~~ licensed premises are located in the geographic
16 territory within which such distributor is authorized to sell such brand,
17 as designated in the notice or notices filed with the director pursuant to
18 K.S.A. 41-410 and amendments thereto; and

19 (3) such persons located outside such territory or outside this state
20 as permitted by law.

21 (d) The purchase of cereal malt beverage in kegs or other bulk con-
22 tainers and the bottling or canning thereof in accordance with law.

23 (e) The storage ~~on the distributor's licensed premises~~ and delivery to
24 a ~~liquor retailer or cereal malt beverage retailer licensed under the Kansas~~
25 ~~liquor control act or a retailer licensed under K.S.A. 41-2702 and amend-~~
26 ~~ments thereto, on the distributor's licensed premises,~~ of alcoholic liquor
27 or cereal malt beverage of another licensed distributor authorized by law
28 to sell such alcoholic liquor or cereal malt beverage to such retailer, in
29 accordance with an agreement entered into with such other distributor
30 and approved by the director.

31 Sec. 8. K.S.A. 41-308 is hereby amended to read as follows: 41-308.

32 (a) A *liquor* retailer's license shall allow the licensee to sell and offer for
33 sale at retail and deliver in the original package, ~~as therein prescribed,~~
34 alcoholic liquor *and cereal malt beverage* for use or consumption off of
35 and away from the premises specified in such license. A *liquor* retailer's
36 license shall permit sale and delivery of alcoholic liquor *and cereal malt*
37 *beverage* only on the licensed premises and shall not permit sale of al-
38 coholic liquor *or cereal malt beverage* for resale in any form, except that
39 a licensed *liquor* retailer may:

40 (1) Sell alcoholic liquor *and cereal malt beverage* to a temporary per-
41 mit holder for resale by such permit holder; and

42 (2) sell and deliver alcoholic liquor *and cereal malt beverage* to a
43 caterer or to the licensed premises of a club or drinking establishment,

1 if such premises are in the county where the *liquor* retailer's premises
2 are located or in an adjacent county, for resale by such club, establishment
3 or caterer.

4 (b) ~~The~~ *Except as provided herein, the* holder of a *liquor* retailer's
5 license shall not sell, offer for sale, give away or permit to be sold, offered
6 for sale or given away in or from the premises specified in such license
7 any service or thing of value whatsoever except alcoholic liquor *and cereal*
8 *malt beverage* in the original package, except that a licensed *liquor* retailer
9 may:

10 (1) Charge a delivery fee for delivery to a club, drinking establishment
11 or caterer pursuant to subsection (a);

12 (2) sell lottery tickets and shares to the public in accordance with the
13 Kansas lottery act, if the *liquor* retailer is selected as a lottery retailer;

14 (3) include in the sale of alcoholic liquor *or cereal malt beverage* any
15 goods included by the manufacturer in packaging with the alcoholic liquor
16 *or cereal malt beverage*, subject to the approval of the director; and

17 (4) distribute to the public, without charge, consumer advertising
18 specialities bearing advertising matter, subject to rules and regulations of
19 the secretary limiting the form and distribution of such specialities so that
20 they are not conditioned on or an inducement to the purchase of alcoholic
21 liquor *or cereal malt beverage*.

22 (c) No licensed *liquor* retailer shall furnish any entertainment in such
23 premises or permit any pinball machine or game of skill or chance to be
24 located in or on such premises.

25 (d) A *liquor* retailer's license shall allow the licensee to store alcoholic
26 liquor *and cereal malt beverage* in refrigerators, cold storage units, ice
27 boxes or other cooling devices, and the licensee may sell such alcoholic
28 liquor *and cereal malt beverage* to consumers in a chilled condition.

29 Sec. 9. K.S.A. 2008 Supp. 41-308b is hereby amended to read as
30 follows: 41-308b. (a) A microbrewery license shall allow:

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

33 (2) the sale to beer distributors of *domestic* beer, manufactured by
34 the licensee;

35 (3) the sale, on the licensed premises in the original unopened con-
36 tainer to consumers for consumption off the licensed premises, of *do-*
37 *mestic* beer manufactured by the licensee;

38 (4) the serving on the premises of samples of *domestic* beer manu-
39 factured by the licensee, if the premises are located in a county where
40 the sale of alcoholic liquor is permitted by law in licensed drinking
41 establishments;

42 (5) if the licensee is also licensed as a club or drinking establishment,
43 the sale of domestic beer, *cereal malt beverage* and other alcoholic liquor

1 for consumption on the licensed premises as authorized by the club and
2 drinking establishment act; and

3 (6) if the licensee is also licensed as a caterer, the sale of domestic
4 beer, *cereal malt beverage* and other alcoholic liquor for consumption on
5 unlicensed premises as authorized by the club and drinking establishment
6 act.

7 (b) Upon application and payment of the fee prescribed by K.S.A.
8 41-310, and amendments thereto, by a microbrewery licensee, the direc-
9 tor may issue not to exceed one microbrewery packaging and warehousing
10 facility license to the microbrewery licensee. A microbrewery packaging
11 and warehousing facility license shall allow:

12 (1) The transfer, from the licensed premises of the microbrewery to
13 the licensed premises of the microbrewery packaging and warehousing
14 facility, of *domestic* beer manufactured by the licensee, for the purpose
15 of packaging or storage, or both; and

16 (2) the transfer, from the licensed premises of the microbrewery
17 packaging and warehousing facility to the licensed premises of the mi-
18 crobrewery, of *domestic* beer manufactured by the licensee; or

19 (3) the removal from the licensed premises of the microbrewery
20 packaging and warehousing facility of *domestic* beer manufactured by the
21 licensee for the purpose of delivery to a licensed beer wholesaler.

22 (c) A microbrewery may sell domestic beer in the original unopened
23 container to consumers for consumption off the licensed premises at any
24 time between 6 a.m. and 12 midnight on any day except Sunday and
25 between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a),
26 a microbrewery may serve samples of domestic beer and serve and sell
27 domestic beer and other alcoholic liquor for consumption on the licensed
28 premises at any time when a club or drinking establishment is authorized
29 to serve and sell alcoholic liquor.

30 (d) The director may issue to the Kansas state fair or any bona fide
31 group of brewers a permit to import into this state small quantities of
32 beer. Such beer shall be used only for bona fide educational and scientific
33 tasting programs and shall not be resold. Such beer shall not be subject
34 to the tax imposed by K.S.A. 41-501, and amendments thereto. The per-
35 mit shall identify specifically the brand and type of beer to be imported,
36 the quantity to be imported, the tasting programs for which the beer is
37 to be used and the times and locations of such programs. The secretary
38 shall adopt rules and regulations governing the importation of beer pur-
39 suant to this subsection and the conduct of tasting programs for which
40 such beer is imported.

41 (e) A microbrewery license or microbrewery packaging and ware-
42 housing facility license shall apply only to the premises described in the
43 application and in the license issued and only one location shall be de-

1 scribed in the license.

2 (f) No microbrewery shall:

3 (1) Employ any person under the age of 18 years in connection with
4 the manufacture, sale or serving of any alcoholic liquor, *cereal malt bev-*
5 *erage or domestic beer*;

6 (2) permit any employee of the licensee who is under the age of 21
7 years to work on the licensed premises at any time when not under the
8 on-premises supervision of either the licensee or an employee of the
9 licensee who is 21 years of age or over;

10 (3) employ any person under 21 years of age in connection with mix-
11 ing or dispensing alcoholic liquor, *cereal malt beverage or domestic beer*;
12 or

13 (4) employ any person in connection with the manufacture or sale of
14 alcoholic liquor, *cereal malt beverage or domestic beer* if the person has
15 been convicted of a felony.

16 (g) Whenever a microbrewery licensee is convicted of a violation of
17 the Kansas liquor control act, the director may revoke the licensee's li-
18 cense and all fees paid for the license in accordance with the Kansas
19 administrative procedure act.

20 Sec. 10. K.S.A. 41-601 is hereby amended to read as follows: 41-601.
21 Every manufacturer, distributor; *or* microbrewery which sells any beer
22 *or cereal malt beverage* to a beer distributor at wholesale and farm winery
23 which sells any wine to a distributor at wholesale shall between the 1st
24 and 15th day of each calendar month, make return under oath to the
25 director of all alcoholic liquor *or cereal malt beverage* manufactured and
26 sold by the manufacturer, distributor, microbrewery or farm winery in
27 the course of business during the preceding calendar month. In the case
28 of a distributor, the return shall also show: (a) The total amount of *alco-*
29 *holic liquor or cereal malt beverage* purchased by the distributor during
30 the preceding calendar t month, the names of he distillers or distributors
31 from whom purchased, the quantity of each brand and the price paid
32 therefor; and (b) the names and locations of the *liquor retailers and cereal*
33 *malt beverage* retailers to whom alcoholic liquor *or cereal malt beverage*
34 was sold by the distributor during the preceding calendar month, the
35 quantity of each brand and the price charged therefor. The return shall
36 be made upon forms prescribed and furnished by the director and shall
37 contain such other information as the director reasonably requires.

38 Sec. 11. K.S.A. 41-602 is hereby amended to read as follows: 41-602.
39 It is the duty of each manufacturer, distributor; *or* microbrewery which
40 sells any beer *or cereal malt beverage* to a beer distributor and farm
41 winery which sells any wine to a distributor to keep complete and accurate
42 records of all ~~such sales of liquor, wine or beer~~ and complete and accurate
43 records of all alcoholic liquors *and cereal malt beverages* produced, man-

1 manufactured, compounded or imported. The director, in the director's dis-
2 cretion, may prescribe reasonable and uniform methods for keeping re-
3 cords by manufacturers, distributors, microbreweries and farm wineries
4 as contemplated by K.S.A. 41-401 through 41-409, and amendments
5 thereto.

6 Sec. 12. K.S.A. 41-701 is hereby amended to read as follows: 41-701.

7 (a) Except as provided in subsection (d), no spirits distributor shall sell
8 or attempt to sell any spirits within this state except to:

9 (1) A licensed manufacturer, licensed nonbeverage user or licensed
10 spirits distributor; or

11 (2) a licensed *liquor* retailer, as authorized by K.S.A. 41-306, and
12 amendments thereto.

13 (b) Except as provided in subsection (d), no wine distributor shall sell
14 or attempt to sell any wine within this state except to:

15 (1) A licensed manufacturer, licensed nonbeverage user or licensed
16 wine distributor;

17 (2) a licensed caterer; or

18 (3) a *liquor* retailer, club or drinking establishment, licensed in this
19 state, as authorized by K.S.A. 41-306a, *and amendments thereto*.

20 (c) Except as provided by subsection (d), no beer distributor shall sell
21 or attempt to sell any beer or cereal malt beverage within this state except
22 to:

23 (1) A licensed manufacturer, licensed nonbeverage user or licensed
24 beer distributor;

25 (2) a licensed caterer; or

26 (3) a *liquor retailer, a cereal malt beverage* retailer ~~licensed under~~
27 ~~the Kansas liquor control act or under K.S.A. 41-2702 and amendments~~
28 ~~thereto~~ or a club or drinking establishment, licensed in this state, as au-
29 thorized by K.S.A. 41-307, and amendments thereto.

30 (d) (1) If any spirits distributor refuses to sell spirits which such dis-
31 tributor is authorized to sell or refuses to provide any service in connec-
32 tion therewith to any licensed *liquor* retailer as authorized by K.S.A. 41-
33 306, and amendments thereto, it shall be lawful for any other licensed
34 spirits distributor to sell such spirits to such *liquor* retailer.

35 (2) If any wine distributor refuses to sell wine which such distributor
36 is authorized to sell or refuses to furnish service in connection therewith
37 to any licensed *liquor* retailer, as authorized by K.S.A. 41-306a, *and*
38 *amendments thereto*, it shall be lawful for any other licensed wine dis-
39 tributor to sell such wine to such *liquor* retailer.

40 (3) If any beer distributor refuses to sell beer or cereal malt beverage
41 which such distributor is authorized to sell or provide service in connec-
42 tion therewith to any *liquor* retailer ~~licensed under this act or under~~
43 ~~K.S.A. 41-2702 and amendments thereto~~, *or to any cereal malt beverage*

1 *retailer* as authorized by K.S.A. 41-307, and amendments thereto, it shall
2 be lawful for any other licensed beer distributor to sell such beer or cereal
3 malt beverage to such *liquor retailer or cereal malt beverage* retailer.

4 (e) No manufacturer of alcoholic liquor or cereal malt beverage shall
5 sell or attempt to sell any alcoholic liquor or cereal malt beverage within
6 this state except to a licensed manufacturer, licensed distributor or li-
7 censed nonbeverage user.

8 (f) No supplier, wholesaler, distributor, manufacturer or importer
9 shall by oral or written contract or agreement, expressly or impliedly fix,
10 maintain, coerce or control the resale price of alcoholic liquor, beer or
11 cereal malt beverage to be resold by such wholesaler, distributor, man-
12 ufacturer or importer.

13 (g) Any supplier, wholesaler, distributor or manufacturer violating the
14 provisions of this section shall be guilty of a misdemeanor and upon con-
15 viction thereof shall be punished by a fine of not less than \$500 and not
16 more than \$1,000, to which may be added not to exceed six months'
17 imprisonment. In addition, any supplier, wholesaler, distributor, manu-
18 facturer or importer violating the provisions of this section relating to
19 fixing, maintaining or controlling the resale price of alcoholic liquor, beer
20 or cereal malt beverage shall be liable in a civil action to treble the amount
21 of any damages awarded plus reasonable attorney fees for the damaged
22 party.

23 Sec. 13. K.S.A. 41-708 is hereby amended to read as follows: 41-708.
24 No *liquor retailer licensed under this act* shall purchase or receive alco-
25 holic liquor *or cereal malt beverage* from any source except from a dis-
26 tributor licensed under ~~this~~ *the Kansas liquor control* act and having a
27 place of business in this state, except that a licensed *liquor* retailer may
28 purchase confiscated alcoholic liquor *or cereal malt beverage* at a sheriff's
29 sale. Any ~~retail licensee~~ *liquor retailer* who violates this section is guilty
30 of a misdemeanor, and upon conviction thereof shall be punished by a
31 fine of not less than \$200, nor more than \$1,000, to which may be added
32 imprisonment for not more than six months, and the license of such li-
33 censee may be revoked as provided by law.

34 Sec. 14. K.S.A. 2008 Supp. 41-712 is hereby amended to read as
35 follows: 41-712. (a) Within any city where the days of sale at retail of
36 alcoholic liquor in the original package have not been expanded as pro-
37 vided by K.S.A. 2008 Supp. 41-2911, and amendments thereto, or have
38 been so expanded and subsequently restricted as provided by K.S.A. 2008
39 Supp. 41-2911, and amendments thereto, and within any township where
40 the days of sale at retail of alcoholic liquor in the original package have
41 not been expanded as provided by K.S.A. 2008 Supp 41-2911, and amend-
42 ments thereto, or have been so expanded and subsequently restricted as
43 provided by K.S.A. 2008 Supp. 41-2911, and amendments thereto, no

1 ~~person~~ *liquor retailer* shall sell at retail any alcoholic liquor or *cereal malt*
 2 *beverage* in the original package: (1) On Sunday; (2) on Memorial Day,
 3 Independence Day, Labor Day, Thanksgiving Day or Christmas Day; or
 4 (3) before 9 a.m. or after 11 p.m. on any day when the sale is permitted.
 5 The governing body of any city by ordinance may require the closing of
 6 premises prior to 11 p.m., but such ordinance shall not require closing
 7 prior to 8 p.m.

8 (b) Within any city where the days of sale at retail of alcoholic liquor
 9 in the original package have been expanded as provided by K.S.A. 2008
 10 Supp. 41-2911, and amendments thereto, and have not been subse-
 11 quently restricted as provided by K.S.A. 2008 Supp. 41-2911, and amend-
 12 ments thereto, and within any township where the days of sale at retail
 13 of alcoholic liquor in the original package have been expanded as provided
 14 by K.S.A. 2008 Supp. 41-2911, and amendments thereto, and have not
 15 been subsequently restricted as provided by K.S.A. 2008 Supp. 41-2911,
 16 and amendments thereto, no ~~person~~ *liquor retailer* shall sell at retail al-
 17 coholic liquor or *cereal malt beverage* in the original package: (1) On
 18 Sunday before 12 noon or after 8 p.m.; (2) on Easter Sunday, Thanksgiv-
 19 ing Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any
 20 day when the sale is permitted. The governing body of any city by ordi-
 21 nance may require the closing of premises prior to 11 p.m., but such
 22 ordinance shall not require closing prior to 8 p.m.

23 Sec. 15. K.S.A. 41-717 is hereby amended to read as follows: 41-717.

24 (a) (1) Except as provided by subsection (a)(2), no person shall sell or
 25 furnish at retail and no microbrewery or farm winery shall sell to any
 26 consumer any alcoholic liquor or *cereal malt beverage* on credit; on a
 27 passbook; on order on a store; in exchange for any goods, wares or mer-
 28 chandise; or in payment for any services rendered. If any person extends
 29 credit in violation of this subsection, the debt attempted to be created
 30 shall not be recoverable at law.

31 (2) A licensed *liquor* retailer may sell alcoholic liquor, *cereal malt*
 32 *beverage* and nonalcoholic malt beverage to a consumer, a licensed mi-
 33 crobrewery may sell domestic beer to a consumer and a licensed farm
 34 winery may sell domestic wine to a consumer on credit pursuant to a
 35 credit card which entitles the user to purchase goods or services from at
 36 least 100 persons not related to the issuer of the credit card.

37 (b) No microbrewery, farm winery or *liquor* retailer of alcoholic liq-
 38 ~~uor~~ shall accept a check for payment for alcoholic liquors or *cereal malt*
 39 *beverages* sold by the *microbrewery*, winery or *liquor* retailer to a con-
 40 sumer, other than the personal check of the person making the purchase.

41 Sec. 16. K.S.A. 41-718 is hereby amended to read as follows: 41-718.

42 (a) No person except a manufacturer, distributor, microbrewery, farm
 43 winery or wholesaler shall fill or refill, in whole or in part, any original

1 package of alcoholic liquor *or cereal malt beverage* with the same or any
2 other kind or quality of alcoholic liquor *or cereal malt beverage*.

3 (b) No person shall have in the person's possession for sale at retail
4 any bottles, casks or other containers containing alcoholic liquor *or cereal*
5 *malt beverage*, except in original packages.

6 Sec. 17. K.S.A. 41-724 is hereby amended to read as follows: 41-724.
7 No person or common carrier shall haul or transport alcoholic liquor *or*
8 *cereal malt beverage* in or into this state, for sale, or for storage and sale
9 in this state, upon which the required labeling or gauging fee, tax, duty
10 or license has not been paid, except for delivery to distributors, distillers,
11 manufacturers, importers, blenders, rectifiers, wholesalers or jobbers
12 maintaining a bonded warehouse within this state.

13 Sec. 18. K.S.A. 41-725 is hereby amended to read as follows: 41-725.
14 It shall be unlawful for any officer, agent or employee of any railroad
15 company, express company or other common carrier to deliver any al-
16 coholic liquors *or cereal malt beverages* to any person other than to the
17 person to whom such shipment is consigned, or to his authorized agent,
18 and without a written receipt in each instance by such consignee in person
19 therefor, or by his authorized agent; or to deliver any such shipments to
20 any person whomsoever where such shipments have been consigned to
21 a fictitious person or persons under a fictitious name.

22 Sec. 19. K.S.A. 41-726 is hereby amended to read as follows: 41-726.
23 It shall be unlawful for any person to make a false statement, for the
24 purpose of obtaining alcoholic liquors *or cereal malt beverages*, to any
25 railroad, express or transportation company, or any person engaged in the
26 business of transporting goods, wares or merchandise for the purpose of
27 obtaining the shipment, transportation or delivery of same.

28 Sec. 20. K.S.A. 41-729 is hereby amended to read as follows: 41-729.
29 (a) No *liquor* retailer shall sell, directly or indirectly, any alcoholic liquor
30 *or cereal malt beverage* at less than the acquisition cost of such *alcoholic*
31 liquor *or cereal malt beverage* without first having obtained from the
32 director a permit to do so.

33 (b) The director may issue to a licensed *liquor* retailer a permit au-
34 thORIZING the *liquor* retailer to sell alcoholic liquor *or cereal malt beverage*
35 at less than the acquisition ~~act of such liquor~~ *cost of such alcoholic liquor*
36 *or cereal malt beverage* if:

37 (1) The *liquor* retailer is actually closing out the *liquor* retailer's stock
38 for the purpose of completely discontinuing sale of the item of alcoholic
39 liquor *or cereal malt beverage* for a period of not less than 12 months;

40 (2) the item of alcoholic liquor *or cereal malt beverage* is damaged
41 or deteriorated in quality and notice is given to the public thereof; or

42 (3) the sale of the item of alcoholic liquor *or cereal malt beverage* is
43 by an officer acting under the order of a court.

1 Sec. 21. K.S.A. 2008 Supp. 41-805 is hereby amended to read as
2 follows: 41-805. ~~(†)~~ (a) Any room, house, building, boat, vehicle, airplane,
3 structure or place of any kind where alcoholic liquors *or cereal malt bev-*
4 *erages* are sold, manufactured, bartered or given away, in violation of ~~this~~
5 *the Kansas liquor control act*, or any building, structure or boat where
6 persons are permitted to resort for the purpose of drinking alcoholic liq-
7 uors, ~~in violation of this act, or any place where such liquors are kept for~~
8 ~~sale, barter or gift, in violation of this act, and all such liquors, and cereal~~
9 *malt beverages in violation of the Kansas liquor control act or the Kansas*
10 *cereal malt beverage act, or any place where such alcoholic liquor or*
11 *cereal malt beverage is kept for sale, barter or gift in violation of the*
12 *Kansas liquor control act or the Kansas cereal malt beverage act. All such*
13 *alcoholic liquor or cereal malt beverage* and all property kept in and used
14 in maintaining such a place, are each and all of them hereby declared to
15 be a common nuisance. Any person who maintains or assists in maintain-
16 ing such common nuisance is guilty of a misdemeanor punishable by
17 imprisonment for not more than one year or by a fine not exceeding
18 \$25,000, or by both. If the court finds that the owner of real property
19 knew or should have known under the circumstances of the maintenance
20 of a common nuisance on such property, contrary to the liquor laws of
21 this state, and did not make a bona fide attempt to abate such nuisance
22 under the circumstances, such property shall be subject to a lien for, and
23 may be sold to pay all fines and costs assessed against the occupant of
24 such building or premises for any violation of ~~this act, and such~~ *the Kansas*
25 *liquor control act or the Kansas cereal malt beverage act. Such lien shall*
26 *be immediately enforced by civil action, in any court having jurisdiction,*
27 *by the county or district attorney of the county wherein such building or*
28 *premises may be located, or by the attorney for the director, when or-*
29 *dered by the director. For purposes of this section, evidence of a bona*
30 *fide attempt to abate such nuisance by the owner of the property shall*
31 *include, but not be limited to, the filing of a written report, by such owner*
32 *or at such owner's direction, to the local law enforcement agency that the*
33 *property is suspected by the owner of the property of being used in*
34 *maintaining a common nuisance as set forth in K.S.A. 22-3901, and*
35 *amendments thereto, contrary to the liquor laws of this state. If a tenant*
36 *of any building or premises uses the building or premises, or any part*
37 *thereof, in maintaining a common nuisance as hereinbefore defined, or*
38 *knowingly permits such use by another, such use shall render void the*
39 *lease under which the tenant holds, and shall cause the right of possession*
40 *to revert to the owner or lessor, who may make immediate entry upon*
41 *the premises, or may invoke the remedy provided for the forcible deten-*
42 *tion thereof.*
43 ~~(‡)~~ (b) Upon the filing of a complaint or information charging that a

1 vehicle or airplane is a common nuisance as above declared, a warrant
 2 shall be issued authorizing and directing the officer to whom it is directed
 3 to arrest the person or persons described in the complaint or information
 4 or the person or persons using the vehicle or airplane in violation of ~~this~~
 5 *the Kansas liquor control act or the Kansas cereal malt beverage act* and
 6 to seize and take into the officer's custody all such vehicles and airplanes
 7 soused which the officer finds, and safely keep them subject to the order
 8 of the court. In the complaint or information it shall not be necessary to
 9 accurately describe the vehicle or airplane so used, but only such descrip-
 10 tion shall be necessary as will enable the officer executing the warrant to
 11 identify it properly.

12 Whenever any vehicles or airplanes ~~shall be~~ *are* seized under any such
 13 warrant, whether an arrest has been made or not, a notice shall issue
 14 within 48 hours after the return of the warrant in the same manner as a
 15 summons, directed to the defendant in such action and to all persons
 16 claiming any interest in such vehicles or airplanes, fixing a time, to be not
 17 less than 60 days, and place at which all persons claiming any interest
 18 therein may appear and answer the complaint made against such vehicles
 19 or airplanes and show cause why they should not be adjudged forfeited
 20 and sold as hereinafter provided. Such notice shall be served upon the
 21 defendant in the action in the same manner as a summons if the defend-
 22 ant be found within the jurisdiction of the court, and a copy thereof shall
 23 also be posted in one or more public places in the county in which the
 24 cause is pending. If at the time for filing answer the notice has not been
 25 duly served or sufficient cause appear, the time for answering shall be
 26 extended by the court and such other notice issued as will ~~supply~~ *correct*
 27 any defect in the previous notice and give reasonable time and opportu-
 28 nity for all persons interested to appear and answer. At or before the time
 29 fixed by notice, any person claiming an interest in the vehicles or airplanes
 30 seized, may file an answer in writing, setting up a claim thereto, and shall
 31 ~~thereupon~~ be admitted as a party defendant to the proceedings against
 32 such vehicles or airplanes. The complaint or information and answer or
 33 answers that may be filed shall be the only pleadings required. At the
 34 time fixed for answer, or at any other time to be fixed by the court, a trial
 35 shall be held in a summary manner before the court on the allegation of
 36 the complaint or information against the property seized. Whether any
 37 answer ~~shall be~~ *is* filed or not, it shall be the duty of the county or district
 38 attorney to appear and adduce evidence in support of such allegation.

39 ~~(c)~~ *(c)* If the court finds that such vehicles or airplanes ~~were at the~~
 40 ~~time~~ *are* a common nuisance, as defined in this section, the court shall
 41 adjudge forfeited so much thereof as the court finds to be a common
 42 nuisance, and shall order the officer in whose custody they are to sell
 43 them publicly. The officer shall cause notice to be given by publication

1 for at least one week in the official county paper of the time and place of
2 the sale of the property and shall file in the court a return showing the
3 sale of the property and the amount received therefor and shall pay the
4 same into court to await the order of the court. The court, if it approves
5 such sale, shall declare forfeited the proceeds of the sale and, after paying
6 out of the proceeds of the sale the costs of the action, including costs of
7 sale and the keeping and maintenance of the property, shall out of the
8 balance of the money received from the property at the sale, pay all liens,
9 according to their priorities, which are established by intervention or oth-
10 erwise at the hearing or another proceeding brought for that purpose as
11 being bona fide and for value and as having been created without the
12 lienor having any notice that the vehicle or airplane was being used in so
13 violating the provisions of ~~this~~ *the Kansas liquor control act or the Kansas*
14 *cereal malt beverage act* and without the lienor having any notice at any
15 time subsequent to the creation of the lien and prior to the seizure in
16 time to have protected the lien that the vehicle was so being used. The
17 balance remaining shall be paid to the state treasurer pursuant to K.S.A.
18 20-2801, and amendments thereto, ~~except that~~. If upon proper proof, a
19 lien as herein provided is established in excess of the value of the vehicle
20 as found by the court, the court may order, without sale, the surrender
21 of such vehicle to such lienor upon the payment of all costs as is herein
22 provided.

23 ~~(4)~~ (d) Either the state or any defendant or other person claiming the
24 vehicle or airplane seized, or an interest therein, may appeal from the
25 judgment of the court in any such proceedings against the property seized
26 in the manner provided for taking appeals in criminal cases. Any claimant
27 of such property who appeals, in order to stay proceedings, must enter
28 into an undertaking with a sufficient surety to the state of Kansas, to be
29 approved by the judge of the district court, in the sum of not less than
30 \$100 nor less than double the amount of the value of the property as
31 fixed by the court and the costs adjudged against the property, condi-
32 tioned that the claimant will prosecute the appeal without unnecessary
33 delay, and if judgment is entered against the claimant on appeal, the
34 claimant will satisfy the judgment and costs, and no bond shall be required
35 for an appeal by the state, and such appeal shall stay the execution of the
36 judgment.

37 Sec. 22. K.S.A. 41-806 is hereby amended to read as follows: 41-806.
38 The attorney for the director when ordered by the director, or county
39 attorney in the county in which such nuisance exists, or is kept or main-
40 tained, may maintain an action by injunction, in the name of the state of
41 Kansas, to abate and temporarily or permanently to enjoin such nuisance.
42 The court shall have the right to make temporary and final orders as in
43 other injunction proceedings. The plaintiff shall not be required to give

1 bond in such action.

2 Upon final judgment against the defendant, such court shall allow the
 3 attorneys for the state of Kansas a reasonable fee for prosecuting the
 4 action which shall be taxed as costs and shall also order that such room,
 5 house, building, structure, boat or place of any kind shall be closed and
 6 padlocked for a period of not less than three ~~(3)~~ months nor more than
 7 two ~~(2)~~ years, and until the owner, lessee, tenant or occupant thereof shall
 8 give bond with sufficient surety to be approved by the court making the
 9 order, in the penal sum of not less than ~~one thousand dollars (\$1,000)~~
 10 \$1,000, payable to the state of Kansas, and conditioned that no alcoholic
 11 liquor ~~will or cereal malt beverage shall~~ for a period of two years thereafter
 12 be manufactured, possessed, sold, bartered or given away or furnished or
 13 otherwise disposed of thereon or therein, or kept thereon or therein with
 14 intent to sell, barter, give away, or otherwise dispose of the same, contrary
 15 to ~~this act, and that he and his~~ *the Kansas liquor control act, the Kansas*
 16 *cereal malt beverage act or the club and drinking establishment act, and*
 17 *that such person's surety will pay all fines and costs assessed against him*
 18 *such person for any violation of this act the Kansas liquor control act, the*
 19 *Kansas cereal malt beverage act or the club and drinking establishment*
 20 *act.*

21 If any condition of such bond be violated, the whole amount may ~~be~~
 22 *is* recovered as a penalty for the use of the state of Kansas; and, in such
 23 suit on the bond, both principal and surety may be joined as party defen-
 24 dants, and satisfaction may be had from either of them. In such action a
 25 notice to nonresident defendants may be given by publication as author-
 26 ized by law under the code of civil procedure, or upon their agents for
 27 service in this state, if any.

28 Sec. 23. K.S.A. 41-901 is hereby amended to read as follows: 41-901.
 29 (a) No person shall manufacture, import for distribution as a distributor
 30 at wholesale or distribute or sell alcoholic liquor or cereal malt beverage
 31 at any place within the state without having first obtained a valid license
 32 therefor under the provisions of ~~this act or under K.S.A. 41-2702 and~~
 33 ~~amendments thereto~~ *the Kansas liquor control act or the Kansas cereal*
 34 *malt beverage act*. No person shall obtain a license to carry on the business
 35 authorized by the license as agent for another, obtain a license by fraud
 36 or make any false statement or otherwise violate any of the provisions of
 37 ~~this act~~ *the Kansas liquor control act, the Kansas cereal malt beverage act*
 38 *or the club and drinking establishment act* in obtaining any license ~~here-~~
 39 ~~under~~ *under any such act*. No person having obtained a license ~~hereunder~~
 40 *under any such act* shall violate any of the provisions of ~~this act~~ *thereof*
 41 with respect to the manufacture, possession, distribution or sale of alco-
 42 holic liquor or cereal malt beverage; or with respect to the maintenance
 43 of the licensed premises.

1 (b) Violation of subsection (a) shall be punishable as follows, except
2 where other penalties are specifically provided by law:

3 (1) For a first offense, by a fine of not more than \$500; and

4 (2) for a second or subsequent offense, by a fine of not more than
5 \$1,000 or by imprisonment for not more than six months, or both.

6 (c) Each day any person engages in business as a manufacturer, dis-
7 tributor, microbrewery, farm winery ~~or, liquor retailer or cereal malt bev-~~
8 *erage* retailer in violation of the provisions of ~~this act~~ *the Kansas liquor*
9 *control act, the Kansas cereal malt beverage act or the club and drinking*
10 *establishment act* shall constitute a separate offense.

11 (d) Any license obtained to carry on the business as agent for another
12 or any license obtained by fraud or by false statements shall be revoked
13 by the director. When a license has been revoked for obtaining a license
14 to carry on the business authorized by the license as agent for another,
15 or obtained a license by fraud or by any false statement, all alcoholic liquor
16 *and cereal malt beverage* in the possession of the person who procured
17 the license shall be forfeited and sold and the proceeds of the sale shall
18 be paid to the county treasurer of the county where the alcoholic liquor
19 *or cereal malt beverage* was located. During the pendency of any appeal
20 from any order revoking a license, the director may obtain an order from
21 the district court of the county where the alcoholic liquor *or cereal malt*
22 *beverage* is located, restraining the sale or disposal of the alcoholic liquor
23 *or cereal malt beverage*. When an order revoking any license is issued by
24 the director, the director shall forthwith forward by registered mail a
25 certified copy of the order revoking the license under the seal of the
26 director to the county attorney of the county where the alcoholic liquor
27 *or cereal malt beverage* is located.

28 Within 15 days after the order of revocation becomes final, the county
29 attorney shall institute, against the person who procured the license, a
30 civil action under the code of civil procedure in the district court of the
31 county in the name of the state of Kansas on the relation of the county
32 attorney to forfeit all alcoholic liquor *and cereal malt beverage*. Summons
33 shall be served as provided by the code of civil procedure upon the person
34 who procured the license. Upon the return day of the summons issued
35 or as soon after as convenient to the court, an order shall be entered by
36 the court forfeiting the alcoholic liquor *and cereal malt beverage* to the
37 state of Kansas and ordering it to be sold by the sheriff of the county in
38 which the forfeiture occurred. The order shall fix the time and place of
39 sale and the method and manner in which the sale shall be held, together
40 with notice of the sale as the court directs. After payment of all costs of
41 the action, including a reasonable fee for the county attorney, the balance
42 remaining shall be paid to the state treasurer pursuant to K.S.A. 20-2801,
43 and amendments thereto.

1 Sec. 24. K.S.A. 41-905 is hereby amended to read as follows: 41-905.
2 Any person who ~~shall~~ knowingly *shall* possess, sell, ship, transport or in
3 any way dispose of any alcoholic liquor *or cereal malt beverage* under any
4 *name* other than the proper name or brand known to the trade as des-
5 ignating the kind and quality of the contents of the package or other
6 containers of such alcoholic liquor *or cereal malt beverage* or who shall
7 cause any such act to be done, shall forfeit to the state such alcoholic
8 liquor *or cereal malt beverage* and such packages and containers, and shall
9 be subject to the punishment and penalties provided for violation of ~~this~~
10 *the Kansas liquor control act*.

11 Sec. 25. K.S.A. 41-1001 is hereby amended to read as follows: 41-
12 1001. In any indictment, information or complaint, charging the violation
13 of any of the provisions of ~~this the Kansas liquor control act, the Kansas~~
14 *cereal malt beverage act or the club and drinking establishment act*, it
15 shall be sufficient to charge that the accused unlawfully manufactured,
16 sold, offered for sale, kept for sale, delivered or otherwise unlawfully
17 disposed of alcoholic liquor *or cereal malt beverage* without any further
18 or more specific description of such *alcoholic liquor or cereal malt bev-*
19 *erage*; and proof of any kind of alcoholic liquor *or cereal malt beverage*
20 unlawfully manufactured, sold, offered for sale, kept for sale, delivered,
21 or otherwise unlawfully disposed of, as the case may be, shall be sufficient
22 proof as to the character or kind of alcoholic liquor *or cereal malt*
23 *beverage*.

24 Sec. 26. K.S.A. 41-1002 is hereby amended to read as follows: 41-
25 1002. In any indictment, information, or complaint charging the violation
26 of any of the provisions of ~~this the Kansas liquor control act, the Kansas~~
27 *cereal malt beverage act or the club and drinking establishment act*, it
28 shall not be necessary to allege the quantity of such alcoholic liquor *or*
29 *cereal malt beverage* or the kind thereof further than to allege that the
30 same was alcoholic liquor ~~and, in~~ *or cereal malt beverage, as the case may*
31 *be*. In case of sale, keeping for sale or delivery, it shall not be necessary
32 to set out the name of the person to whom sale or delivery has been
33 made, ~~and, in~~. In any prosecution for a second offense, it shall not be
34 necessary to state in the indictment, complaint or information the record
35 of the former conviction, but it shall be sufficient briefly to allege such
36 conviction. Proof of sale, delivery or unlawful disposition of alcoholic liq-
37 uors *or cereal malt beverages* to any person, not authorized by ~~this the~~
38 *Kansas liquor control act, the Kansas cereal malt beverage act or the club*
39 *and drinking establishment act* to purchase or receive the same, shall be
40 sufficient to sustain the allegation of unlawful sale, delivery or disposition,
41 as the case may be.

42 Sec. 27. K.S.A. 41-1004 is hereby amended to read as follows: 41-
43 1004. The possession of a special tax stamp from the government of the

1 United States authorizing the sale or manufacture of alcoholic liquor ~~as~~
2 ~~defined in this act or cereal malt beverage~~ by a person not licensed under
3 ~~this the Kansas liquor control act, the Kansas cereal malt beverage act or~~
4 ~~the club and drinking establishment act~~, shall be prima facie evidence that
5 the person so holding said special tax stamp is manufacturing or selling
6 in violation of ~~this act law~~. A certified copy of such special tax stamp
7 verified by the proper authority shall be admitted in evidence in all re-
8 spects as the original special tax stamp might be received.

9 Sec. 28. K.S.A. 41-1101 is hereby amended to read as follows: 41-
10 1101. (a) No distributor licensed under ~~this the Kansas liquor control act~~
11 shall purchase any alcoholic liquor *or cereal malt beverage* from any man-
12 ufacturer, owner of alcoholic liquor *or cereal malt beverage* at the time
13 it becomes a marketable product, exclusive agent of such manufacturer
14 or owner, microbrewery, farm winery or distributor of alcoholic liquor *or*
15 *cereal malt beverage* bottled in a foreign country either within or without
16 this state, unless the manufacturer, owner, exclusive agent, microbrewery,
17 farm winery or distributor files with the director a written statement
18 sworn to by the manufacturer, owner, exclusive agent, microbrewery,
19 farm winery or distributor or, in case of a corporation, one of its principal
20 officers, agreeing to sell any of the brands or kinds of alcoholic liquor *or*
21 *cereal malt beverage* manufactured or distributed by the manufacturer,
22 owner, exclusive agent, microbrewery, farm winery or distributor to any
23 distributor licensed in this state and having a franchise to distribute the
24 alcoholic liquor *or cereal malt beverage* pursuant to K.S.A. 41-410, and
25 amendments thereto, and to make such sales to all such licensed distrib-
26 utors in this state at the same current price and without discrimination.
27 Each manufacturer, owner, exclusive agent, microbrewery or farm winery
28 shall provide to each distributor written notice not less than 45 days be-
29 fore any change in the current price of any spirits or wine which such
30 manufacturer, owner, exclusive agent, microbrewery or farm winery sells
31 to such distributor. If any manufacturer, owner, exclusive agent, micro-
32 brewery, farm winery or distributor making the agreement violates the
33 agreement by refusing to sell such alcoholic liquor *or cereal malt beverage*
34 to any such franchised licensed distributor in this state or discriminates
35 in current prices among such franchised licensed distributors making or
36 attempting to make purchases of alcoholic liquor *or cereal malt beverage*
37 from the manufacturer, owner, exclusive agent, microbrewery, farm win-
38 ery or distributor, the director shall notify, by registered mail, each such
39 franchised licensed distributor in this state of the violation. Thereupon,
40 it shall be unlawful for a franchised licensed distributor in this state to
41 purchase any alcoholic liquor *or cereal malt beverage* from the manufac-
42 turer, owner, exclusive agent, microbrewery, farm winery or distributor.
43 If thereafter such a franchised licensed distributor purchases any alco-

1 holic liquor *or cereal malt beverage* from the manufacturer, owner, ex-
2 clusive agent, microbrewery, farm winery or distributor, such franchised
3 distributor's license shall be revoked by the director. If any manufacturer,
4 owner, exclusive agent, microbrewery, farm winery or distributor of al-
5 coholic liquor *or cereal malt beverage* bottled in a foreign country, making
6 any agreement hereunder, does not have a sufficient supply of alcoholic
7 liquor *or cereal malt beverage* of any of the brands or kinds which the
8 manufacturer, owner, exclusive agent, microbrewery, farm winery or dis-
9 tributor manufactures or distributes to supply the demands of all licensed
10 distributors having a franchise to distribute such alcoholic liquor *or cereal*
11 *malt beverage*, the manufacturer, owner, exclusive agent, microbrewery,
12 farm winery or distributor may ration such alcoholic liquor *or cereal malt*
13 *beverage* and apportion the available supply among such franchised li-
14 censed distributors purchasing or attempting to purchase it, in accordance
15 with a plan which shall be subject to the approval of the director.

16 (b) No liquor retailer licensed under ~~this~~ *the Kansas liquor control*
17 *act and no cereal malt beverage retailer licensed under the Kansas cereal*
18 *malt beverage act* shall purchase any alcoholic liquor *or cereal malt bev-*
19 *erage* from any distributor licensed under ~~this~~ *the Kansas liquor control*
20 *act* unless the distributor files with the director a written statement sworn
21 to by the distributor, or in case of a corporation by one of its principal
22 officers, agreeing to sell any of the brands or kinds of alcoholic liquor *or*
23 *cereal malt beverage* distributed by the distributor and to provide service
24 in connection therewith to any *such* licensed retailer whose licensed
25 premises are located within the geographic territory of the distributor's
26 franchise for the alcoholic liquor *or cereal malt beverage*, unless written
27 approval to do otherwise is obtained from the director, and to make such
28 sales to all such licensed retailers at the same current bottle, sleeve and
29 case price and without discrimination. For purposes of this subsection
30 the "same current bottle, sleeve and case price" for spirits and wine means
31 a price effective for a specified period as designated by the distributor on
32 or before the first day of each month. If any distributor making the agree-
33 ment violates the agreement by refusing to sell or provide service to any
34 such licensed retailer in this state without written approval of the director
35 or discriminates in current prices among such licensed retailers making
36 or attempting to make purchases of alcoholic liquor *or cereal malt bev-*
37 *erage* from the distributor, the director may revoke the license of the
38 distributor. If any licensed distributor making any agreement hereunder
39 does not have a sufficient supply of alcoholic liquor *or cereal malt bev-*
40 *erage* of any of the brands or kinds which the distributor distributes to
41 supply the demands of all such licensed retailers, the distributor may
42 ration such alcoholic liquor *or cereal malt beverage* and apportion the
43 available supply among such licensed retailers purchasing or attempting

1 to purchase the same, in accordance with a plan which shall be subject
2 to the approval of the director.

3 (c) No club or drinking establishment licensed in this state shall pur-
4 chase any wine ~~or beer~~, *beer or cereal malt beverage* from any distributor
5 licensed under ~~this~~ *the Kansas liquor control* act unless the distributor
6 files with the director a written statement sworn to by the distributor, or
7 in case of a corporation by one of its principal officers, agreeing to sell
8 any of the brands or kinds of wine ~~or beer~~, *beer or cereal malt beverage*
9 distributed by the distributor to those clubs and drinking establishments
10 to which the distributor is authorized to sell such wine ~~or beer~~, *beer or*
11 *cereal malt beverage* and to which the distributor desires to sell such wine
12 ~~or beer~~, *beer or cereal malt beverage*, unless written approval to do oth-
13 erwise is obtained from the director and to make such sales to all such
14 licensed clubs or drinking establishments at the same current bottle and
15 case price and without discrimination. If any distributor making the agree-
16 ment violates the agreement by refusing to sell to any such licensed club
17 or drinking establishment in this state without written approval of the
18 director or discriminates in current prices among such licensed clubs or
19 drinking establishments making or attempting to make purchases of wine
20 ~~or beer~~, *beer or cereal malt beverage* from the distributor, the director
21 may revoke the license of the distributor. If any licensed distributor mak-
22 ing any agreement hereunder does not have a sufficient supply of wine
23 ~~or beer~~, *beer or cereal malt beverage* of any of the brands or kinds which
24 the distributor distributes to supply the demands of all such licensed clubs
25 or drinking establishments, the distributor may ration such wine ~~or beer~~,
26 *beer or cereal malt beverage* and apportion the available supply among
27 such licensed clubs or drinking establishments purchasing or attempting
28 to purchase the same, in accordance with a plan which shall be subject
29 to the approval of the director.

30 For the purposes of this subsection, a delivery charge shall not be
31 considered a part of the price of wine ~~or beer~~, *beer or cereal malt beverage*
32 sold by a distributor.

33 (d) No *cereal malt beverage* retailer ~~licensed under K.S.A. 41-2701~~
34 ~~et seq. and amendments thereto~~ shall purchase any cereal malt beverage
35 from any distributor licensed under ~~this~~ *the Kansas liquor control* act
36 unless the distributor files with the director a written statement sworn to
37 by the distributor, or in case of a corporation by one of its principal
38 officers, agreeing to sell any of the brands or kinds of cereal malt beverage
39 distributed by the distributor ~~to those retailers~~ *and to provide services in*
40 *connection therewith to any licensed cereal malt beverage retailer* to
41 which the distributor is authorized to sell such cereal malt beverage, un-
42 less written approval to do otherwise is obtained from the director, and
43 to make such sales to all such licensed *cereal malt beverage* retailers at

1 the same current price and without discrimination. If any distributor mak-
2 ing the agreement violates the agreement by refusing to sell *or provide*
3 *services* to any such licensed *cereal malt beverage* retailer in this state
4 without written approval of the director or discriminates in current prices
5 among such licensed *cereal malt beverage* retailers making or attempting
6 to make purchases of cereal malt beverage from the distributor, the di-
7 rector may revoke the license of the distributor. If any licensed distributor
8 making any agreement hereunder does not have a sufficient supply of
9 cereal malt beverage of any of the brands or kinds which the distributor
10 distributes to supply the demands of all such licensed *cereal malt beverage*
11 retailers, the distributor may ration such cereal malt beverage and ap-
12 portion the available supply among such licensed *cereal malt beverage*
13 retailers purchasing or attempting to purchase the same, in accordance
14 with a plan which shall be subject to the approval of the director.

15 (e) No distributor shall sell alcoholic liquor or cereal malt beverage
16 to a retailer licensed under the Kansas liquor control act, to a club, drink-
17 ing establishment or caterer licensed under the club and drinking estab-
18 lishment act or to a *cereal malt beverage* retailer licensed under ~~K.S.A.~~
19 ~~41-2702 and amendments thereto~~ *the Kansas cereal malt beverage act* at
20 a discount for multiple case lots.

21 Sec. 29. K.S.A. 41-1102 is hereby amended to read as follows: 41-
22 1102. Any licensee who shall quit business or shall have the license sus-
23 pended or revoked may sell and dispose of any alcoholic liquor *or cereal*
24 *malt beverage* which the licensee has possession of at the time of quitting
25 business or of the suspension or revocation of the license in accordance
26 with rules and regulations adopted by the secretary of revenue.

27 Sec. 30. K.S.A. 41-1122 is hereby amended to read as follows: 41-
28 1122. The director of alcoholic beverage control is authorized to sell at
29 public or private sale alcoholic liquor *or cereal malt beverage* in ~~his~~ *the*
30 *director's* custody heretofore or hereafter purchased or confiscated by ~~his~~
31 ~~agents or other peace officers~~ *agents of the division or other law enforce-*
32 *ment officers* of the state for use as evidence in any investigation, pro-
33 ceeding or trial when such *alcoholic liquor or cereal malt beverage* is no
34 longer required for such investigation, trial or proceeding.

35 Sec. 31. K.S.A. 41-1123 is hereby amended to read as follows: 41-
36 1123. All alcoholic liquor *or cereal malt beverage* in the custody of the
37 director through seizure by agents of ~~alcoholic beverage control or other~~
38 ~~peace~~ *the division or other law enforcement* officers of the state under
39 authority of a duly executed search warrant shall be held until final de-
40 termination of any prosecution arising under such search and seizure.
41 Upon the final determination of such prosecution and if such alcoholic
42 liquor *or cereal malt beverage* is fit for human consumption the director
43 may make application to the court in which such alcoholic liquor *or cereal*

1 *malt beverage* was offered as evidence for an order to sell such *alcoholic*
 2 *liquor or cereal malt beverage*. The court, if satisfied that such *alcoholic*
 3 *liquor or cereal malt beverage* so seized was being manufactured, distrib-
 4 uted, stored, sold or used in violation of law, shall make an order that
 5 such property be sold by the director at public or private sale.

6 All alcoholic liquor *or cereal malt beverage* which is unfit for human
 7 consumption may be summarily destroyed by the director.

8 Sec. 32. K.S.A. 41-1125 is hereby amended to read as follows: 41-
 9 1125. The sheriff of any county who ~~has in his possession~~ *possesses* al-
 10 coholic liquors *or cereal malt beverages* on which ~~he~~ *has been* levied
 11 execution for a judgment creditor may sell such alcoholic liquors *or cereal*
 12 *malt beverages* when an order of the court is entered directing such sale.
 13 Such order shall be directed to the sheriff of the county in which exe-
 14 cution is levied and shall fix the time and place of sale, method and man-
 15 ner in which the sale shall be held, together with such notice as the court
 16 shall direct. After payment of all costs of ~~said the~~ *action*, the balance shall
 17 be paid to the judgment creditor, ~~except~~. If the amount exceeds the
 18 amount of the judgment, then any excess of the judgment amount shall
 19 be returned to defendant debtor. This ~~act~~ *section* shall not apply in any
 20 case in which the court has ordered and directed confiscation of ~~liquors~~
 21 *alcoholic liquor or cereal malt beverage* as part of a judgment or
 22 conviction.

23 Sec. 33. K.S.A. 41-2604 is hereby amended to read as follows: 41-
 24 2604. Any person allowing consumption of alcoholic liquor *or cereal malt*
 25 *beverage* in violation of ~~this the~~ *Kansas liquor control act or the Kansas*
 26 *cereal malt beverage act* on any property owned, leased or otherwise un-
 27 der ~~his such person's~~ *control* shall ~~thereby subject himself and the prop-~~
 28 ~~erty on which said illegal consumption takes place to the penalties here-~~
 29 ~~inafter provided.~~

30 ~~(a) The person allowing such consumption shall be guilty of a mis-~~
 31 ~~demeanor and upon conviction thereof shall be subject to a fine not to~~
 32 ~~exceed five hundred dollars (\$500) \$500 or confinement in the county~~
 33 ~~jail not to exceed six (6) months or both such fine and imprisonment.~~

34 (b) The property on which the violation takes place is declared to be
 35 a public nuisance and as such is subject to abatement as provided for any
 36 ~~other liquor nuisance~~ in K.S.A. 41-805, *and amendments thereto*.

37 Sec. 34. K.S.A. 41-2610 is hereby amended to read as follows: 41-
 38 2610. It shall be unlawful for any licensee or holder of a temporary permit
 39 under ~~this the~~ *club and drinking establishment act* to:

40 (a) Employ any person under the age of 18 years in connection with
 41 the serving of alcoholic liquor *or cereal malt beverage*.

42 (b) Employ knowingly or continue in employment any person in con-
 43 nection with the dispensing or serving of alcoholic liquor *or cereal malt*

- 1 *beverage* or the mixing of drinks containing alcoholic liquor who has been
2 adjudged guilty of a felony or of any crime involving a morals charge in
3 this or any other state, or of the United States.
- 4 (c) Employ knowingly or to continue in employment any person in
5 connection with the dispensing or serving of alcoholic liquor *or cereal*
6 *malt beverage* or mixing of drinks containing alcoholic liquor who has
7 been adjudged guilty of a violation of any intoxicating liquor law of this
8 or any other state, or of the United States, during the two-year period
9 immediately following such adjudging.
- 10 (d) In the case of a club, fail to maintain at the licensed premises a
11 current list of all members and their residence addresses or refuse to
12 allow the director, any of the director's authorized agents or any law
13 enforcement officer to inspect such list.
- 14 (e) Purchase alcoholic liquor *or cereal malt beverage* from any person
15 except from a person authorized by law to sell such alcoholic liquor *or*
16 *cereal malt beverage* to such licensee or permit holder.
- 17 (f) Permit any employee of the licensee or permit holder who is under
18 the age of 21 years to work on premises where alcoholic liquor *or cereal*
19 *malt beverage* is sold by such licensee or permit holder at any time when
20 not under the on-premises supervision of either the licensee or permit
21 holder, or an employee who is 21 years of age or over.
- 22 (g) Employ any person under 21 years of age in connection with the
23 mixing or dispensing of drinks containing alcoholic liquor *or cereal malt*
24 *beverage*.
- 25 Sec. 35. K.S.A. 2008 Supp. 41-2611 is hereby amended to read as
26 follows: 41-2611. The director may revoke or suspend any license issued
27 pursuant to the club and drinking establishment act for any one or more
28 of the following reasons:
- 29 (a) The licensee has fraudulently obtained the license by giving false
30 information in the application therefor or any hearing thereon.
- 31 (b) The licensee has violated any of the provisions of this act or any
32 rules or regulations adopted hereunder.
- 33 (c) The licensee has become ineligible to obtain a license or permit
34 under this act.
- 35 (d) The licensee's manager or employee has been intoxicated while
36 on duty.
- 37 (e) The licensee, or its manager or employee, has permitted any dis-
38 orderly person to remain on premises where alcoholic liquor *or cereal*
39 *malt beverage* is sold by such licensee.
- 40 (f) There has been a violation of a provision of the laws of this state,
41 or of the United States, pertaining to the sale of intoxicating or alcoholic
42 liquors or cereal malt beverages, or any crime involving a morals charge,
43 on premises where alcoholic liquor *or cereal malt beverage* is sold by such

1 licensee.

2 (g) The licensee, or its managing officers or any employee, has pur-
3 chased and displayed, on premises where alcoholic liquor *or cereal malt*
4 *beverage* is sold by such licensee, a federal wagering occupational stamp
5 issued by the United States treasury department.

6 (h) The licensee, or its managing officers or any employee, has pur-
7 chased and displayed, on premises where alcoholic liquor *or cereal malt*
8 *beverage* is sold by such licensee, a federal coin operated gambling device
9 stamp for the premises issued by the United States treasury department.

10 (i) The licensee holds a license as a class B club, drinking establish-
11 ment or caterer and has been found guilty of a violation of article 10 of
12 chapter 44 of the Kansas Statutes Annotated under a decision or order
13 of the Kansas human rights commission which has become final or such
14 licensee has been found guilty of a violation of K.S.A. 21-4003, and
15 amendments thereto.

16 (j) There has been a violation of K.S.A. 21-4106 or 21-4107, and
17 amendments thereto, on premises where alcoholic liquor *or cereal malt*
18 *beverage* is sold by such licensee.

19 Sec. 36. K.S.A. 41-2614 is hereby amended to read as follows: 41-
20 2614. (a) Except as provided by subsection (c), no club or drinking estab-
21 lishment shall allow the serving, mixing or consumption of alcoholic liquor
22 ~~on its~~ *or cereal malt beverage on the licensed* premises between the hours
23 of 2:00 a.m. and 9:00 a.m. on any day.

24 (b) No caterer shall allow the serving, mixing or consumption of al-
25 coholic liquor *or cereal malt beverage* between the hours of 2:00 a.m. and
26 6:00 a.m. on any day at an event catered by such caterer.

27 (c) A hotel of which the entire premises are licensed as a drinking
28 establishment or as a drinking establishment/caterer may allow at any time
29 the serving, mixing and consumption of alcoholic liquor and cereal malt
30 beverage from a minibar in a guest room by guests registered to stay in
31 such room, and guests of guests registered to stay in such room.

32 Sec. 37. K.S.A. 41-2632 is hereby amended to read as follows: 41-
33 2632. (a) As used in this section: (1) ~~The word~~ "Distributor" means a
34 person, firm, association or corporation which is the holder of ~~an alcoholic~~
35 ~~liquor~~ *a distributor's license issued under the Kansas liquor control act;*

36 (2) ~~the word~~ "retailer" means a person, copartnership or association
37 which is the holder of a *liquor* retailer's license issued under the Kansas
38 liquor control act; and

39 (3) ~~the word~~ "manufacturer" ~~shall have~~ *has* the meaning ascribed to it
40 by K.S.A. 41-102, and amendments thereto.

41 (b) It shall be unlawful for a distributor ~~of alcoholic liquor~~, or a man-
42 ufacturer, or any officer, agent or employee thereof, to influence, coerce
43 or induce or attempt to influence, coerce or induce, either directly or

1 indirectly, any holder of a license issued under ~~this~~ *the club and drinking*
2 *establishment* act, or any officer, agent or employee of the holder of such
3 a license, to: (1) Purchase any particular brand or kind of alcoholic liquor
4 *or cereal malt beverage* to be dispensed by the licensee, except that a
5 distributor or manufacturer may provide to a licensee information re-
6 garding the availability of brands in the market and things of value as
7 authorized by subsection (d) of K.S.A. 41-703, and amendments thereto;
8 or (2) purchase from a particular retailer alcoholic liquor *or cereal malt*
9 *beverage* to be dispensed by the licensee.

10 (c) Violation of this section is a misdemeanor punishable by a fine of
11 not less than \$100 nor more than \$1,000 or by imprisonment for not more
12 than six months, or by both.

13 Sec. 38. K.S.A. 41-2637 is hereby amended to read as follows: 41-
14 2637. (a) A license for a class A club shall allow the licensee to offer for
15 sale, sell and serve alcoholic liquor *and cereal malt beverage* for con-
16 sumption on the licensed premises by members and their families, and
17 guests accompanying them.

18 (b) (1) Subject to the provisions of subsection (b)(2), any two or more
19 class A or class B clubs may permit, by an agreement filed with and
20 approved by the director, the members of each such club to have access
21 to all other clubs which are parties to such agreement. The privileges
22 extended to the visiting members of other clubs under such an agreement
23 shall be determined by the agreement and, if the agreement so provides,
24 any club which is a party to such agreement may sell, offer for sale and
25 serve, to any person who is a member of another club which is a party to
26 such agreement, alcoholic liquor *or cereal malt beverage* for consumption
27 on the licensed premises by such person and such person's family, and
28 guests accompanying them.

29 (2) A class B club may enter into a reciprocal agreement authorized
30 by subsection (b)(1) only if the class B club is a restaurant.

31 Sec. 39. K.S.A. 41-2641 is hereby amended to read as follows: 41-
32 2641. (a) A license for a class B club shall allow the licensee to offer for
33 sale, sell and serve alcoholic liquor *and cereal malt beverage* for con-
34 sumption on the licensed premises by members of such club and guests
35 accompanying them.

36 (b) (1) Subject to the provisions of subsection (b)(2), any two or more
37 class A or class B clubs may permit, by an agreement filed with and
38 approved by the director, the members of each such club to have access
39 to all other clubs which are parties to such agreement. The privileges
40 extended to the visiting members of other clubs under such an agreement
41 shall be determined by the agreement and, if the agreement so provides,
42 any club which is a party to such agreement may sell, offer for sale and
43 serve, to any person who is a member of another club which is a party to

1 such agreement, alcoholic liquor or *cereal malt beverage* for consumption
2 on the licensed premises by such person and such person's family, and
3 guests accompanying them.

4 (2) A class B club may enter into a reciprocal agreement authorized
5 by subsection (b)(1) only if the class B club is a restaurant.

6 (c) Except as provided by subsection (d), an applicant for member-
7 ship in a class B club shall, before becoming a member of such club:

8 (1) Be screened by the club for good moral character;

9 (2) pay an annual membership fee of not less than \$10; and

10 (3) wait for a period of 10 days after completion of the application
11 form and payment of the membership fee.

12 (d) Notwithstanding the membership fee and waiting period require-
13 ment of subsection (c):

14 (1) Any class B club located on the premises of a hotel or RV resort
15 may establish rules whereby a guest, who registered at the hotel or RV
16 resort and who is not a resident of the county in which the club is located,
17 may file application for temporary membership in such club. The mem-
18 bership, if granted, shall be valid only for the period of time that the guest
19 is a bona fide registered guest at the hotel or RV resort and such tem-
20 porary membership shall not be subject to the waiting period or fee re-
21 quirement of this section.

22 (2) Any class B club located on property which is owned or operated
23 by a municipal airport authority and upon which consumption of alcoholic
24 liquor is authorized by law may establish rules whereby an air traveler
25 who is a holder of a current airline ticket may file application for tem-
26 porary membership in such club for the day such air traveler's ticket is
27 valid, and such temporary membership shall not be subject to the waiting
28 period or fee requirement of this section.

29 (3) Any class B club may establish rules whereby military personnel
30 of the armed forces of the United States on temporary duty and housed
31 at or near any military installation located within the exterior boundaries
32 of the state of Kansas may file application for temporary membership in
33 such club. The membership, if granted, shall be valid only for the period
34 of the training, not to exceed 20 weeks. Any person wishing to make
35 application for temporary membership in a class B club under this sub-
36 section (d)(3) shall present the temporary duty orders to the club. Tem-
37 porary membership issued under this subsection (d)(3) shall not be sub-
38 ject to the waiting period or fee requirements of this section.

39 (4) Any class B club may enter into a written agreement with a hotel
40 or RV resort whereby a guest who is registered at the hotel or RV resort
41 and who is not a resident of the county in which the club is located may
42 file application for temporary membership in such club. The temporary
43 membership, if granted, shall be valid only for the period of time that the

1 guest is a bona fide registered guest at the hotel or RV resort and shall
2 not be subject to the waiting period or dues requirement of this section.
3 A club may enter into a written agreement with a hotel or RV resort
4 pursuant to this provision only if: (A) The hotel or RV resort is located in
5 the same county as the club; (B) there is no class B club located on the
6 premises of the hotel or RV resort; and (C) no other club has entered
7 into a written agreement with the hotel or RV resort pursuant to this
8 section.

9 (5) Any class B club located in a racetrack facility where races with
10 parimutuel wagering are conducted under the Kansas parimutuel racing
11 act may establish rules whereby persons attending such races may file an
12 application for temporary membership in such club for the day such per-
13 son is attending such races, and such temporary membership shall not be
14 subject to the waiting period or fee requirement of this section.

15 Sec. 40. K.S.A. 41-2642 is hereby amended to read as follows: 41-
16 2642. (a) A license for a drinking establishment shall allow the licensee
17 to offer for sale, sell and serve alcoholic liquor *and cereal malt beverage*
18 for consumption on the licensed premises which may be open to the
19 public, but only if such premises are located in a county where the qual-
20 ified electors of the county:

21 (1) (A) Approved, by a majority vote of those voting thereon, the
22 proposition to amend section 10 of article 15 of the constitution of the
23 state of Kansas at the general election in November 1986, or (B) have
24 approved a proposition to allow sales of alcoholic liquor by the individual
25 drink in public places within the county at an election pursuant to K.S.A.
26 41-2646, and amendments thereto; and

27 (2) have not approved a proposition to prohibit such sales of alcoholic
28 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
29 and amendments thereto.

30 (b) A drinking establishment shall be required to derive from sales
31 of food for consumption on the licensed premises not less than 30% of
32 all the establishment's gross receipts from sales of food and beverages on
33 such premises unless the licensed premises are located in a county where
34 the qualified electors of the county:

35 (1) Have approved, at an election pursuant to K.S.A. 41-2646, and
36 amendments thereto, a proposition to allow sales of alcoholic liquor by
37 the individual drink in public places within the county without a require-
38 ment that any portion of their gross receipts be derived from the sale of
39 food; and

40 (2) have not approved a proposition to prohibit such sales of alcoholic
41 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
42 and amendments thereto.

43 (c) A drinking establishment shall specify in the application for a li-

1 cense or renewal of a license the premises to be licensed, which may
2 include all premises which are in close proximity and are under the con-
3 trol of the applicant or licensee.

4 (d) Notwithstanding any other provision of law to the contrary, any
5 hotel of which the entire premises are licensed as a drinking establish-
6 ment or as a drinking establishment/caterer may sell alcoholic liquor or
7 cereal malt beverage by means of minibars located in guest rooms of such
8 hotel, subject to the following:

9 (1) The key, magnetic card or other device required to attain access
10 to a minibar in a guest room shall be provided only to guests who are
11 registered to stay in such room and who are 21 or more years of age;

12 (2) containers or packages of spirits or wine sold by means of a min-
13 ibar shall hold not less than 50 nor more than 200 milliliters; and

14 (3) a minibar shall be restocked with alcoholic liquor or cereal malt
15 beverage only during hours when the hotel is permitted to sell alcoholic
16 liquor and cereal malt beverage as a drinking establishment.

17 Sec. 41. K.S.A. 41-2643 is hereby amended to read as follows: 41-
18 2643. (a) A caterer's license shall allow the licensee to offer for sale, sell
19 and serve alcoholic liquor *or cereal malt beverage* for consumption on
20 unlicensed premises, which may be open to the public, but only if such
21 premises are located in a county where the qualified electors of the
22 county:

23 (1) (A) Approved, by a majority vote of those voting thereon, the
24 proposition to amend section 10 of article 15 of the constitution of the
25 state of Kansas at the general election in November, 1986, or (B) have
26 approved a proposition to allow sales of alcoholic liquor by the individual
27 drink in public places within the county at an election pursuant to K.S.A.
28 41-2646, and amendments thereto; and

29 (2) have not approved a proposition to prohibit such sales of alcoholic
30 liquor *or cereal malt beverage* in such places at a subsequent election
31 pursuant to K.S.A. 41-2646, and amendments thereto.

32 (b) A caterer shall be required to derive from sales of food at catered
33 events not less than 30% of the caterer's gross receipts from all sales of
34 food and beverages at catered events in a 12-month period unless the
35 caterer offers for sale, sells and serves alcoholic liquor *or cereal malt*
36 *beverage* only in counties where the qualified electors of the county:

37 (1) Have approved, at an election pursuant to K.S.A. 41-2646, and
38 amendments thereto, a proposition to allow sales of alcoholic liquor by
39 the individual drink in public places within the county without a require-
40 ment that any portion of their gross receipts be derived from the sale of
41 food; and

42 (2) have not approved a proposition to prohibit such sales of alcoholic
43 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,

1 and amendments thereto.

2 (c) Each caterer shall maintain the caterer's principal place of busi-
3 ness in a county in this state where the caterer is authorized by this section
4 to sell alcoholic liquor *or cereal malt beverage* by the individual drink in
5 a public place. All records of the caterer relating to the caterer's licensed
6 business and the caterer's license shall be kept at such place of business.
7 The caterer's principal place of business shall be stated in the application
8 for a caterer's license and the caterer shall notify the director of any
9 change in its location within 10 days after such change.

10 (d) A caterer shall notify the director at least 10 days prior to any
11 event at which the caterer will sell alcoholic liquor *or cereal malt beverage*
12 by the individual drink unless the director waives the 10-day requirement
13 for good cause shown. In addition, prior to the event, the caterer shall
14 notify:

15 (1) The police chief of the city where the event will take place, if the
16 event will take place within the corporate limits of a city; or

17 (2) the county sheriff of the county where the event will take place,
18 if the event will be outside the corporate limits of any city.

19 (e) A caterer may rebate a portion of the caterer's receipts from the
20 sale of alcoholic liquor *or cereal malt beverage* at an event to the person
21 or organization contracting with the caterer to sell alcoholic liquor *or*
22 *cereal malt beverage* at such event.

23 Sec. 42. K.S.A. 2008 Supp. 41-2645 is hereby amended to read as
24 follows: 41-2645. (a) A temporary permit shall allow the permit holder to
25 offer for sale, sell and serve alcoholic liquor *or cereal malt beverage* for
26 consumption on unlicensed premises, which may be open to the public,
27 subject to the terms of such permit.

28 (b) The director may issue a temporary permit to any one or more
29 persons or organizations applying for such a permit, in accordance with
30 rules and regulations of the secretary. The permit shall be issued in the
31 names of the persons or organizations to which it is issued.

32 (c) Applications for temporary permits shall be required to be filed
33 with the director not less than 14 days before the event for which the
34 permit is sought unless the director waives such requirement for good
35 cause. Each application shall state the purposes for which the proceeds
36 of the event will be used. The application shall be upon a form prescribed
37 and furnished by the director and shall be filed with the director in du-
38 plicate. Each application shall be accompanied by a permit fee of \$25 for
39 each day for which the permit is issued, which fee shall be paid by a
40 certified or cashier's check of a bank within this state, United States post
41 office money order or cash in the full amount thereof. All permit fees
42 collected by the director pursuant to this section shall be remitted to the
43 state treasurer in accordance with the provisions of K.S.A. 75-4215, and

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

4 (d) Temporary permits shall specify the premises for which they are
5 issued and shall be issued only for premises where the city, county or
6 township zoning code allows use for which the permit is issued. No tem-
7 porary permit shall be issued for premises which are not located in a
8 county where the qualified electors of the county:

9 (1) (A) Approved, by a majority vote of those voting thereon, to adopt
10 the proposition amending section 10 of article 15 of the constitution of
11 the state of Kansas at the general election in November, 1986; or (B) have
12 approved a proposition to allow the sale of liquor by the individual drink
13 in public places within the county at an election pursuant to K.S.A. 41-
14 2646, and amendments thereto; and

15 (2) have not approved a proposition to prohibit such sales of alcoholic
16 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
17 and amendments thereto.

18 (e) A temporary permit shall be issued for a period of time not to
19 exceed three consecutive days, the dates and hours of which shall be
20 specified in the permit, except that the director may issue one temporary
21 permit, valid for the entire period of time of the Kansas state fair, which
22 authorizes the sale of wine in its original, unopened container and the
23 serving by the drink of only wine, *cereal malt beverage* or beer, or ~~both~~
24 *all such beverages*, on the state fairgrounds on premises specified in the
25 temporary permit, by a person who has entered into an agreement with
26 the state fair board for that purpose. Not more than four temporary per-
27 mits may be issued to any one applicant in a calendar year.

28 (f) All proceeds from an event for which a temporary permit is issued
29 shall be used only for the purposes stated in the application for such
30 permit.

31 (g) A temporary permit shall not be transferable or assignable.

32 (h) The director may refuse to issue a temporary permit to any person
33 or organization which has violated any provision of the Kansas liquor
34 control act, the *Kansas cereal malt beverage act*, *the club and drinking*
35 *establishment act* or K.S.A. 79-41a01 et seq., and amendments thereto.

36 Sec. 43. K.S.A. 2008 Supp. 41-2701 is hereby amended to read as
37 follows: 41-2701. As used in ~~this~~ *the Kansas cereal malt beverage act*
38 unless the context otherwise requires:

39 (a) (1) "Cereal malt beverage" means any fermented but undistilled
40 liquor brewed or made from malt or from a mixture of malt or malt
41 substitute or any flavored malt beverage, as defined in K.S.A. 2008 Supp.
42 41-2729, and amendments thereto, ~~but does not include~~.

43 (2) "Cereal malt beverage" *does not mean* any such liquor which is

1 more than ~~3.2%~~ 4% alcohol by weight.

2 (b) "Director" means the director of alcoholic beverage control of
3 the department of revenue.

4 (c) "Manufacturer" means a manufacturer as defined by K.S.A. 41-
5 102 and amendments thereto.

6 (d) "Person" means any individual, firm, partnership, corporation or
7 association.

8 (e) ~~"Retailer"~~ "*Cereal malt beverage retailer*" means any person who
9 sells or offers for sale any cereal malt beverage for use or consumption
10 and not for resale in any form.

11 (f) "Place of business" means any place at which cereal malt bever-
12 ages are sold *pursuant to the Kansas cereal malt beverage act*.

13 (g) "Distributor" means a beer distributor licensed pursuant to the
14 Kansas liquor control act.

15 (h) "Legal age for consumption of cereal malt beverage" means 21
16 years of age, except that "legal age for consumption of cereal malt bev-
17 erage" shall mean 18 years of age if at any time the provisions of P.L. 98-
18 363 penalizing states for permitting persons under 21 years of age to
19 consume cereal malt beverage are repealed or otherwise invalidated or
20 nullified.

21 New Sec. 44. (a) No cereal malt beverage retailer shall sell any cereal
22 malt beverage without having secured from the director a license for each
23 place of business to be licensed.

24 (b) No cereal malt beverage retailer's license shall be issued to an
25 individual:

26 (1) Who is not a resident of this state;

27 (2) who has not been a resident of this state for at least four years
28 immediately preceding the date of application;

29 (3) who has not been a citizen of the United States for at least 10
30 years, except that the spouse of a deceased licensee may receive and
31 renew a cereal malt beverage retailer's license notwithstanding the pro-
32 visions of this subsection (b)(3), if such spouse is otherwise qualified to
33 hold a cereal malt beverage retailer's license and is a United States citizen
34 or becomes a United States citizen within one year after the deceased
35 licensee's death;

36 (4) who has beneficial interest in the manufacture, preparation or
37 wholesaling of alcoholic liquor or cereal malt beverage;

38 (5) who has been convicted of a felony under the laws of this state,
39 any other state or the United States;

40 (6) who has had a license revoked for cause under the provisions of
41 the Kansas liquor control act, the Kansas cereal malt beverage act or the
42 beer and cereal malt beverage keg registration act, or who has had any
43 license issued under the cereal malt beverage laws of any state revoked

1 for cause, except that a license may be issued to an individual whose
2 license was revoked for the conviction of a misdemeanor at any time after
3 the lapse of 10 years following the date of the revocation;

4 (7) who has been convicted of being the keeper or is keeping a house
5 of prostitution or has forfeited bond to appear in court to answer charges
6 of being a keeper of a house of prostitution;

7 (8) who has been convicted of being a proprietor of a gambling house,
8 pandering or any other crime opposed to decency and morality or has
9 forfeited bond to appear in court to answer charges for any of those
10 crimes;

11 (9) who is not at least 21 years of age;

12 (10) who, other than as a member of the governing body of a city or
13 county, appoints or supervises any law enforcement officer, who is a law
14 enforcement official or who is an employee of the director;

15 (11) who intends to carry on the business authorized by the license
16 as agent of another;

17 (12) who, at the time of application for renewal of a cereal malt bev-
18 erage retailer's license, would not be eligible for the license upon a first
19 application, except as provided by subsection (b)(14);

20 (13) who does not own the premises for which a license is sought, or
21 does not have a written lease thereon for at least $\frac{3}{4}$ of the period for
22 which the license is to be issued;

23 (14) whose spouse would be ineligible to receive a cereal malt bev-
24 erage retailer's license for any reason other than citizenship, residence
25 requirements or age, except that this subsection (b)(14) shall not apply in
26 determining eligibility for a renewal license; or

27 (15) whose spouse has been convicted of a felony or other crime
28 which would disqualify a person from licensure under this section and
29 such felony or other crime was committed during the time that the spouse
30 held a license under the Kansas cereal malt beverage act.

31 (c) No cereal malt beverage retailer's license shall be issued to a part-
32 nership unless all of the partners are qualified to obtain a license.

33 (d) No cereal malt beverage retailer's license shall be issued to a
34 corporation, if any officer, director or stockholder of the corporation
35 would be ineligible to receive a cereal malt beverage retailer's license for
36 any reason. It shall be unlawful for any stockholder of a corporation li-
37 censed as a cereal malt beverage retailer to transfer any stock in the
38 corporation to any person who would be ineligible to receive a cereal malt
39 beverage retailer's license for any reason, and any such transfer shall be
40 null and void, except that: (1) If any stockholder owning stock in the
41 corporation dies and an heir or devisee to whom stock of the corporation
42 descends by descent and distribution or by will is ineligible to receive a
43 cereal malt beverage retailer's license, the legal representatives of the

1 deceased stockholder's estate and the ineligible heir or devisee shall have
2 14 months from the date of the death of the stockholder within which to
3 sell the stock to a person eligible to receive a cereal malt beverage re-
4 tailer's license, any such sale by a legal representative to be made in
5 accordance with the provisions of the probate code; or (2) if the stock in
6 any such corporation is the subject of any trust and any trustee or bene-
7 ficiary of the trust who is 21 years of age or older is ineligible to receive
8 a cereal malt beverage retailer's license, the trustee, within 14 months
9 after the effective date of the trust, shall sell the stock to a person eligible
10 to receive a cereal malt beverage retailer's license and hold and disburse
11 the proceeds in accordance with the terms of the trust. If any legal rep-
12 resentatives, heirs, devisees or trustees fail, refuse or neglect to sell any
13 stock as required by this subsection, the stock shall revert to and become
14 the property of the corporation, and the corporation shall pay to the legal
15 representatives, heirs, devisees or trustees the book value of the stock.
16 During the period of 14 months prescribed by this subsection, the cor-
17 poration shall not be denied a cereal malt beverage retailer's license or
18 have its cereal malt beverage retailer's license revoked if the corporation
19 meets all of the other requirements necessary to have a cereal malt bev-
20 erage retailer's license.

21 (e) No cereal malt beverage retailer's license shall be issued to a trust,
22 if any grantor, beneficiary or trustee would be ineligible to receive a li-
23 cense under the Kansas cereal malt beverage act for any reason, except
24 that the provisions of subsection (b)(6) shall not apply in determining
25 whether a beneficiary would be eligible for a license.

26 (f) This section shall be a part of and supplemental to the Kansas
27 cereal malt beverage act.

28 New Sec. 45. (a) No corporation, either organized under the laws of
29 this state, any other state or a foreign country, shall be issued a cereal
30 malt beverage retailer's license, unless the corporation has first procured
31 a certificate of authority from the secretary of state to do business in this
32 state as provided by law, appointed a citizen of the United States, and
33 resident of Kansas, as its resident agent and filed with the director a duly
34 authenticated copy of a duly executed power of attorney, authorizing the
35 agent to accept service of process from the director and the courts of this
36 state.

37 In addition, any corporation organized under the laws of any other state
38 or foreign country, as a condition precedent to the issuance to it of any
39 license, shall file with the secretary of state of the state of Kansas, a duly
40 authorized and executed power of attorney, authorizing the secretary of
41 state to accept service of process from the director and the courts of this
42 state and to accept service of any notice or order provided for in the
43 Kansas cereal malt beverage act, and all such acts by the secretary of state

1 shall be fully binding upon the corporation.

2 (b) This section shall be a part of and supplemental to the Kansas
3 cereal malt beverage act.

4 New Sec. 46. (a) A person may be licensed by the director to sell
5 cereal malt beverage in the original and unopened container or to sell
6 cereal malt beverage for consumption on the licensed premises.

7 (b) Applications for all licenses to sell cereal malt beverage shall be
8 upon forms prescribed and furnished by the director and shall be filed
9 with the director in duplicate. Each application shall be accompanied by
10 a state registration fee of \$50 for each initial application and \$10 for each
11 renewal application, to defray the cost of preparing and furnishing stan-
12 dard forms incident to the administration of the Kansas cereal malt bev-
13 erage act and the cost of processing the application. Each application also
14 shall be accompanied by a deposit of a certified or cashier's check of a
15 bank within this state, United States post office money order or cash in
16 the full amount of the license fee required to be paid for the license
17 applied for, which license fee shall be returned to the applicant if the
18 application is denied. All registration and license fees shall be paid into
19 the state treasury by the director and shall be credited to the state general
20 fund.

21 (c) Each applicant for a cereal malt beverage retailer's license shall
22 file with the application a joint and several bond on a form prescribed by
23 the director and executed by good and sufficient corporate sureties li-
24 censed to do business within the state of Kansas to the director, in the
25 amount of \$2,000. Such bond shall be conditioned on the licensee's com-
26 pliance with the provisions of the Kansas cereal malt beverage act and
27 payment of all taxes, fines and forfeitures which may be assessed against
28 the licensee.

29 (d) The annual fee for a cereal malt beverage retailer's license shall
30 be \$250, which shall be paid at the time application for a license is sub-
31 mitted to the director. In addition to the license fee:

32 (1) Any city in which the licensed premises are located shall levy and
33 collect an annual occupation or license tax on the licensee in an amount
34 not less than \$100 or more than \$300, but no other occupation or excise
35 tax or license fee shall be levied by any city against or collected from the
36 licensee; and

37 (2) any township in which the licensed premises are located shall levy
38 and collect an annual occupation or license tax on the licensee in an
39 amount not less than \$100 or more than \$300; the township board of the
40 township is authorized to fix and impose the tax and the tax shall be paid
41 by the licensee to the township treasurer, who shall issue a receipt there-
42 for to the licensee and shall cause the tax paid to be placed in the general
43 fund of the township.

- 1 (e) The license year for a cereal malt beverage retailer's license shall
2 commence on the date the license is issued by the director and shall end
3 one year after that date.
- 4 (f) Any person who was licensed on the date immediately preceding
5 the effective date of this act to sell cereal malt beverage, as such term
6 was defined in K.S.A. 2008 Supp. 41-2701 prior to its amendment by this
7 act, shall be deemed a licensed cereal malt beverage retailer for a period
8 of 90 days after the effective date of this act. Thereafter, such person
9 must be licensed by the director as provided in this act, in order to operate
10 as a cereal malt beverage retailer.
- 11 (g) This section shall be a part of and supplemental to the Kansas
12 cereal malt beverage act.
- 13 New Sec. 47. (a) When an application for a license or renewal of a
14 license to sell cereal malt beverage is filed with the director, the director
15 shall notify the governing body of the city or county where the premises
16 to be licensed are located, if such governing body has requested such
17 notification. No such license shall be issued by the director until the
18 expiration of at least 10 days from the time of filing such application with
19 the director, during which period the governing body of such city or
20 county may request the director to hold a hearing on the granting or
21 renewal of such license. The hearing on the application shall be conducted
22 in accordance with the provisions of the Kansas administrative procedure
23 act.
- 24 (b) At such hearing the governing body of such city or county shall
25 have the right to appear before the director and present testimony and
26 evidence and make recommendations regarding the granting of such li-
27 cense or the renewal of such license. In determining whether to grant or
28 to refuse to grant such license or renewal, the director shall take into
29 consideration the testimony and evidence and recommendations of the
30 governing body of such city or county. The director may refuse to grant
31 such license or renewal based on the evidence gathered at such hearing.
- 32 (c) Within 30 days after an application for a license to sell cereal malt
33 beverage is filed, the director shall enter an order either refusing or grant-
34 ing the license. If the director does not enter an order within the time
35 prescribed, the license applied for shall be deemed to have been refused.
36 The director, with the written consent of the applicant for a license, may
37 delay entering an order on an application for an additional period of not
38 to exceed 30 days.
- 39 (d) Proceedings for the suspension, revocation or refusal to grant or
40 renew a license to sell cereal malt beverage, including the proceedings
41 for administrative appeal and judicial review, shall be in substantial con-
42 formity with the proceedings set forth in the Kansas liquor control act for
43 the suspension, revocation or refusal to grant or renew a liquor retailer's

1 license.

2 (e) This section shall be a part of and supplemental to the Kansas
3 cereal malt beverage act.

4 New Sec. 48. (a) Cereal malt beverage retailer licenses issued pur-
5 suant to the Kansas cereal malt beverage act shall apply only to the prem-
6 ises described in the application and in the license issued thereon, and
7 only one location shall be so described in each license. After such license
8 has been granted for a particular premises in any city, the director, upon
9 proper showing, may endorse upon the license permission to abandon
10 the premises, but in order to obtain such permission, the licensee shall
11 file with the director made by any licensee until such license has been
12 endorsed to that effect in writing by the director.

13 (b) This section shall be a part of and supplement to the Kansas cereal
14 malt beverage act.

15 New Sec. 49. (a) No cereal malt beverage retailer shall sell, directly
16 or indirectly, any cereal malt beverage at less than the acquisition cost of
17 such cereal malt beverage without first having obtained from the director
18 a permit to do so.

19 (b) The director may issue to a licensed cereal malt beverage retailer
20 a permit authorizing the cereal malt beverage retailer to sell cereal malt
21 beverage at less than the acquisition cost of such cereal malt beverage if:

22 (1) The cereal malt beverage retailer is actually closing out the cereal
23 malt beverage retailer's stock for the purpose of completely discontinuing
24 sale of the item of cereal malt beverage for a period of not less than 12
25 months;

26 (2) the item of cereal malt beverage is damaged or deteriorated in
27 quality and notice is given to the public thereof; or

28 (3) the sale of the item of cereal malt beverage is by an officer acting
29 under the order of a court.

30 (c) This section shall be a part of and supplemental to the Kansas
31 cereal malt beverage act.

32 New Sec. 50. (a) When a cereal malt beverage retailer has been con-
33 victed by any court of a violation of any of the provisions of the Kansas
34 cereal malt beverage act, such licensee may, in addition to the penalty for
35 such offense, incur a forfeiture of license and all moneys that have been
36 paid therefor.

37 (b) In accordance with the provisions of the Kansas administrative
38 procedure act, the director may suspend or revoke the license of any
39 cereal malt beverage retailer or deny issuance of a cereal malt beverage
40 retailer's license in an original proceeding brought before the director by
41 reason of a cereal malt beverage retailer's violation of any provision of
42 the Kansas cereal malt beverage act or the applicable provisions of the
43 Kansas liquor control act. Any suspension or revocation of the license of

1 a cereal malt beverage retailer licensed to sell cereal malt beverage in the
2 original and unopened containers shall not cause the closure of the li-
3 censed premises.

4 (c) In addition to or in lieu of any suspension or revocation of a li-
5 cense, and in addition to or in lieu of any other civil or criminal penalty
6 provided by law, the director, upon a finding that a licensee under the
7 Kansas cereal malt beverage act has violated any provision thereof, may
8 impose on such licensee a civil fine not exceeding \$1,000 for each viola-
9 tion. For such purpose, the secretary shall adopt rules and regulations
10 providing guidelines for the imposition of fines and penalties pursuant to
11 this section. Such guidelines shall be consistent with the comparable
12 guidelines promulgated by rules and regulations pursuant to the Kansas
13 liquor control act.

14 (d) No fine shall be imposed pursuant to this section except upon the
15 written order of the director to the licensee who committed the violation.
16 Such order shall state the violation, the fine to be imposed and the right
17 of the licensee to appeal the order. Such order shall be subject to appeal
18 and review in the same manner as orders of the director are appealed
19 and reviewed under the Kansas liquor control act.

20 (e) Any fine imposed pursuant to this section shall be paid to the state
21 treasurer, who shall deposit the same in the state treasury and credit it
22 to the state general fund.

23 (f) This section shall be a part of and supplemental to the Kansas
24 cereal malt beverage act.

25 Sec. 51. K.S.A. 2008 Supp. 41-2704 is hereby amended to read as
26 follows: 41-2704. (a) In addition to and consistent with the requirements
27 of the *Kansas* cereal malt beverage act, the board of county commission-
28 ers of any county or the governing body of any city may prescribe hours
29 of closing, standards of conduct and rules and regulations concerning the
30 moral, sanitary and health conditions of places licensed pursuant to this
31 *to sell cereal malt beverage pursuant to the Kansas cereal malt beverage*
32 act and may establish zones within which no such place may be located.

33 (b) Within any city where the days of sale at retail of cereal malt
34 beverage in the original package have not been expanded as provided by
35 K.S.A. 2008 Supp. 41-2911, and amendments thereto, or have been so
36 expanded and subsequently restricted as provided by K.S.A. 2008 Supp.
37 41-2911, and amendments thereto, and within any township where the
38 hours and days of sale at retail of cereal malt beverage in the original
39 package have not been expanded as provided by K.S.A. 2008 Supp. 41-
40 2911, and amendments thereto, or have been so expanded and subse-
41 quently restricted as provided by K.S.A. 2008 Supp. 41-2911, and amend-
42 ments thereto, no cereal malt beverages may be sold:

43 (1) *In the original package between the hours of 11 p.m. and 9 a.m.,*

1 *and for consumption on the licensed premises* between the hours of 12
2 midnight and 6 a.m.; or

3 (2) on Sunday, except in a place of business which is licensed to sell
4 cereal malt beverage for consumption on the premises, which derives not
5 less than 30% of its gross receipts from the sale of food for consumption
6 on the licensed premises and which is located in a county where such
7 sales on Sunday have been authorized by resolution of the board of county
8 commissioners of the county or in a city where such sales on Sunday have
9 been authorized by ordinance of the governing body of the city.

10 (c) Within any city where the days of sale at retail of cereal malt
11 beverage in the original package have been expanded as provided by
12 K.S.A. 2008 Supp. 41-2911, and amendments thereto, and have not been
13 subsequently restricted as provided in K.S.A. 2008 Supp. 41-2911, and
14 amendments thereto, and within any township where the days of sale at
15 retail of cereal malt beverage in the original package have been expanded
16 as provided by K.S.A. 2008 Supp. 41-2911, and amendments thereto, and
17 have not been subsequently restricted as provided by K.S.A. 2008 Supp.
18 41-2911, and amendments thereto, no person shall sell at retail cereal
19 malt beverage:

20 (1) *In the original package between the hours of 11 p.m. and 9 a.m.,*
21 *and for the consumption on the licensed premises* between the hours of
22 12 midnight and 6 a.m.;

23 (2) in the original package before 12 noon *or* after 8 p.m. on Sunday;

24 (3) on Easter Sunday; or

25 (4) for consumption on the licensed premises on Sunday, except in a
26 place of business which is licensed to sell cereal malt beverage for con-
27 sumption on the *licensed* premises, which derives not less than 30% of
28 its gross receipts from the sale of food for consumption on the licensed
29 premises and which is located in a county where such sales on Sunday
30 have been authorized by resolution of the board of county commissioners
31 of the county or in a city where such sales on Sunday have been authorized
32 by ordinance of the governing body of the city.

33 (d) No private rooms or closed booths shall be operated in a place of
34 business, but this provision shall not apply if the licensed premises also
35 are licensed as a club pursuant to the club and drinking establishment
36 act.

37 (e) Each place of business, *except a place of business licensed as a*
38 *club pursuant to the club and drinking establishment act*, shall be open
39 to the public ~~and to law enforcement officers~~ at all times during business
40 hours, ~~except that a premises licensed as a club pursuant to the club and~~
41 ~~drinking establishment act shall be open to law enforcement officers and~~
42 ~~not to the public~~ *The right of immediate entry to and inspection of any*
43 *licensed premises by any duly authorized officer or agent of the director,*

1 *or by any law enforcement officer, shall be a condition on which every*
2 *license is issued, and the application for, and acceptance of, any license*
3 *shall conclusively be deemed to be the consent of the applicant and licensee*
4 *to such immediate entry and inspection. Such right of immediate entry*
5 *and inspection shall be at any time when the premises are occupied and*
6 *is not limited to hours when the licensed premises are open for business.*
7 *Such consent shall not be revocable during the term of the license. Refusal*
8 *of such entry shall be grounds for revocation of the license.*

9 (f) Except as otherwise provided by this subsection, no licensee shall
10 permit a person under the legal age for consumption of cereal malt bev-
11 erage to consume or purchase any cereal malt beverage in or about a
12 place of business. A licensee's employee who is not less than 18 years of
13 age may dispense or sell cereal malt beverage, if:

14 (1) The licensee's place of business is licensed only to sell at retail
15 cereal malt beverage in the original package and not for consumption on
16 the premises; or

17 (2) the licensee's place of business is a licensed food service estab-
18 lishment, as defined by K.S.A. 36-501 and amendments thereto, and not
19 less than 50% of the gross receipts from the licensee's place of business
20 is derived from the sale of food for consumption on the premises of the
21 licensed place of business.

22 (g) No person shall have any alcoholic liquor in such person's pos-
23 session while in a place of business, unless the premises are currently
24 licensed as a club or drinking establishment pursuant to the club and
25 drinking establishment act.

26 (h) Cereal malt beverages may be sold on premises which are licensed
27 pursuant to both the cereal malt beverage act and the club and drinking
28 establishment act at any time when alcoholic liquor is allowed by law to
29 be served on the premises.

30 Sec. 52. K.S.A. 41-2705 is hereby amended to read as follows: 41-
31 2705. (a) Except to the *same* extent permitted *a liquor retailer* pursuant
32 to K.S.A. 41-703, and amendments thereto, no *cereal malt beverage* re-
33 tailer, or any officer, associate, member, representative or agent thereof,
34 shall accept, receive or borrow money or anything else of value, or accept
35 or receive credit, directly or indirectly, from: (1) Any manufacturer or
36 distributor; (2) any person connected with, in any way representing or a
37 member of the family of a manufacturer or distributor; (3) any stock-
38 holders in a manufacturer or distributor; or (4) any officer, manager, agent
39 or representative of a manufacturer or distributor.

40 (b) Any licensee who shall permit or assent, or be a party in any way,
41 to any violation or infringement of the provisions of this section or of
42 K.S.A. 41-702 or 41-703, and amendments thereto, shall be deemed guilty
43 of a violation of ~~this~~ *the Kansas cereal malt beverage act*, and any money

1 loaned contrary to a provision of this section shall not be recovered, or
 2 any note, mortgage or other evidence of indebtedness, or security, or any
 3 lease or contract obtained or made contrary to this act *section* shall be
 4 unenforceable and void.

5 Sec. 53. K.S.A. 41-2706 is hereby amended to read as follows: 41-
 6 2706. (a) Except as provided by subsection (b), no person shall sell or
 7 furnish cereal malt beverages at retail to any person on credit; on a pass-
 8 book; on order on a store; in exchange for any goods, wares or merchan-
 9 dise; or in payment for any services rendered. If any person extends credit
 10 for such purpose, the debt attempted to be created shall not be recov-
 11 erable at law and, in addition, such person shall be subject to the penalties
 12 provided in K.S.A. 41-2707, and amendments thereto.

13 (b) A licensed *cereal malt beverage* retailer may sell cereal malt bev-
 14 erages to a consumer on credit pursuant to a credit card which entitles
 15 the user to purchase goods or services from at least 100 persons not
 16 related to the issuer of the credit card.

17 Sec. 54. K.S.A. 41-2707 is hereby amended to read as follows: 41-
 18 2707. No distributor shall sell or furnish cereal malt beverages to a *cereal*
 19 *malt beverage* retailer on credit; on a passbook; on order on a store; in
 20 exchange for any goods, wares or merchandise; in payment for any service
 21 rendered or to be rendered; or by any extension of credit of any kind,
 22 type or class. Any distributor or *cereal malt beverage* retailer who violates
 23 any of the terms of this section or K.S.A. 41-2706, and amendments
 24 thereto, shall be subject to all penalties and forfeitures provided by K.S.A.
 25 41-2705 ~~and 41-2708~~, and amendments thereto, and ~~any as provided un-~~
 26 ~~der the Kansas liquor control act for the same or substantially similar~~
 27 ~~violations by liquor retailers.~~ Any debt attempted to be created in vio-
 28 lation hereof shall not be recoverable at law.

29 Sec. 55. K.S.A. 41-2709 is hereby amended to read as follows: 41-
 30 2709. The attorney general; or any county attorney ~~of the state within his~~
 31 ~~county or any city attorney within his city shall at all times have the power~~
 32 ~~to may~~ enjoin any party from selling cereal malt beverages within the
 33 county or city notwithstanding ~~said~~ *such* party has a license and permit if
 34 it shall appear that the licensee has violated any provision or regulation
 35 of ~~this~~ *the Kansas cereal malt beverage* act or any of the rules or regula-
 36 ~~tions prescribed under this~~ *adopted by the director pursuant to such act.*
 37 Injunction proceedings shall be the same as is now prescribed for the
 38 enjoining of intoxicating liquor nuisances.

39 Sec. 56. K.S.A. 41-2722 is hereby amended to read as follows: 41-
 40 2722. (a) No *cereal malt beverage* retailer, or employee or agent of a *cereal*
 41 *malt beverage* retailer, licensed to sell cereal malt beverage for consump-
 42 tion on the licensed premises shall:

43 (1) Offer or serve any free cereal malt beverage to any person;

- 1 (2) offer or serve to any person a drink at a price that is less than the
2 acquisition cost of the drink to the licensee;
- 3 (3) sell, offer to sell or serve to any person an unlimited number of
4 drinks during any set period of time for a fixed price, except at private
5 functions not open to the general public;
- 6 (4) sell, offer to sell or serve any drink to any person at any time at a
7 price less than that charged the general public on that day, except at
8 private functions not open to the general public;
- 9 (5) increase the size of a drink of cereal malt beverage without in-
10 creasing proportionately the price regularly charged for the drink on that
11 day;
- 12 (6) encourage or permit, on the licensed premises, any game or con-
13 test which involves drinking cereal malt beverage or the awarding of
14 drinks as prizes; or
- 15 (7) advertise or promote in any way, whether on or off the licensed
16 premises, any of the practices prohibited under subsections (a)(1) through
17 (6).
- 18 (b) Nothing in subsection (a) shall be construed to prohibit a *cereal*
19 *malt beverage* retailer from offering free food or entertainment at any
20 time.
- 21 (c) Violation of any provisions of this section is a misdemeanor pun-
22 ishable as provided by K.S.A. 41-2711, and amendments thereto.
- 23 (d) Violation of any provision of ~~this~~ *the Kansas cereal malt beverage*
24 *act* shall be grounds for suspension or revocation of the *cereal malt bev-*
25 *erage* retailer's license as provided by ~~K.S.A. 41-2708~~ *section 50*, and
26 amendments thereto.
- 27 (e) Every licensee subject to the provisions of this section shall make
28 available at any time upon request a price list showing the licensee's
29 current prices for all cereal malt beverages.
- 30 (f) As used in this section, "drink" means an individual serving of
31 cereal malt beverage.
- 32 (g) This section shall be part of and supplemental to ~~K.S.A. 41-2701~~
33 ~~through 41-2721, and amendments thereto~~ *the Kansas cereal malt bev-*
34 *erage act*.
- 35 Sec. 57. K.S.A. 41-2726 is hereby amended to read as follows: 41-
36 2726. (a) No *cereal malt beverage* retailer licensed under ~~K.S.A. 41-2701~~
37 ~~et seq. and amendments thereto~~ *the Kansas cereal malt beverage act* to
38 sell cereal malt beverage in original and unopened containers and not for
39 consumption on the licensed premises shall sell or offer for sale any cereal
40 malt beverage at a price that is less than the acquisition cost of such cereal
41 malt beverage to the licensee.
- 42 (b) Violation of this section is a misdemeanor punishable as provided
43 by K.S.A. 41-2711, and amendments thereto.

1 (c) Violation of this section shall be grounds for suspension or revo-
2 cation of the *cereal malt beverage* retailer's license as provided by ~~K.S.A.~~
3 ~~41-2708~~ section 7, and amendments thereto.

4 Sec. 58. K.S.A. 2008 Supp. 41-2728 is hereby amended to read as
5 follows: 41-2728. ~~From and after November 15, 2005:~~

6 (a) K.S.A. 41-2701 through 41-2727 and ~~section 14^(a)~~ K.S.A. 2008
7 Supp. 41-2728, and amendments thereto, shall be known and may be
8 cited as the Kansas cereal malt beverage act.

9 (b) Except as specifically provided in the Kansas cereal malt beverage
10 act, the power to regulate all phases of the manufacture, distribution,
11 sale, possession, transportation and traffic in cereal malt beverages is
12 vested exclusively in the state and shall be exercised as provided in the
13 Kansas cereal malt beverage act. No city or county shall enact any ordi-
14 nance or resolution which is in conflict with the provisions of the Kansas
15 cereal malt beverage act and any such ordinance or resolution shall be
16 null and void.

17 (c) The provisions of this act are severable. If any provision of this
18 act is held to be invalid or unconstitutional, it shall be presumed conclu-
19 sively that the legislature would have enacted the remainder of this act
20 without such invalid or unconstitutional provision.

21 Sec. 59. K.S.A. 2008 Supp. 79-3606 is hereby amended to read as
22 follows: 79-3606. The following shall be exempt from the tax imposed by
23 this act:

24 (a) All sales of motor-vehicle fuel, *cereal malt beverages, which are*
25 *subject to taxation under K.S.A. 79-4101 et seq., and amendments thereto,*
26 *or subject to taxation under K.S.A. 79-41a01 et seq., and amendments*
27 *thereto, or other articles upon which a sales or excise tax has been paid,*
28 *not subject to refund, under the laws of this state except cigarettes as*
29 *defined by K.S.A. 79-3301, and amendments thereto, ~~cereal malt bev-~~*
30 *erages and malt products as defined by K.S.A. ~~79-3817~~ 41-501, and*
31 *amendments thereto, including wort, liquid malt, malt syrup and malt*
32 *extract, which is not subject to taxation under the provisions of K.S.A. 79-*
33 *41a02, and amendments thereto, motor vehicles taxed pursuant to K.S.A.*
34 *79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-*
35 *3424d, and amendments thereto, drycleaning and laundry services taxed*
36 *pursuant to K.S.A. 65-34,150, and amendments thereto, and gross re-*
37 *ceipts from regulated sports contests taxed pursuant to the Kansas pro-*
38 *fessional regulated sports act, and amendments thereto;*

39 (b) all sales of tangible personal property or service, including the
40 renting and leasing of tangible personal property, purchased directly by
41 the state of Kansas, a political subdivision thereof, other than a school or
42 educational institution, or purchased by a public or private nonprofit hos-
43 pital or public hospital authority or nonprofit blood, tissue or organ bank

1 and used exclusively for state, political subdivision, hospital or public hos-
2 pital authority or nonprofit blood, tissue or organ bank purposes, except
3 when: (1) Such state, hospital or public hospital authority is engaged or
4 proposes to engage in any business specifically taxable under the provi-
5 sions of this act and such items of tangible personal property or service
6 are used or proposed to be used in such business, or (2) such political
7 subdivision is engaged or proposes to engage in the business of furnishing
8 gas, electricity or heat to others and such items of personal property or
9 service are used or proposed to be used in such business;

10 (c) all sales of tangible personal property or services, including the
11 renting and leasing of tangible personal property, purchased directly by
12 a public or private elementary or secondary school or public or private
13 nonprofit educational institution and used primarily by such school or
14 institution for nonsectarian programs and activities provided or sponsored
15 by such school or institution or in the erection, repair or enlargement of
16 buildings to be used for such purposes. The exemption herein provided
17 shall not apply to erection, construction, repair, enlargement or equip-
18 ment of buildings used primarily for human habitation;

19 (d) all sales of tangible personal property or services purchased by a
20 contractor for the purpose of constructing, equipping, reconstructing,
21 maintaining, repairing, enlarging, furnishing or remodeling facilities for
22 any public or private nonprofit hospital or public hospital authority, public
23 or private elementary or secondary school, a public or private nonprofit
24 educational institution, state correctional institution including a privately
25 constructed correctional institution contracted for state use and owner-
26 ship, which would be exempt from taxation under the provisions of this
27 act if purchased directly by such hospital or public hospital authority,
28 school, educational institution or a state correctional institution; and all
29 sales of tangible personal property or services purchased by a contractor
30 for the purpose of constructing, equipping, reconstructing, maintaining,
31 repairing, enlarging, furnishing or remodeling facilities for any political
32 subdivision of the state or district described in subsection (s), the total
33 cost of which is paid from funds of such political subdivision or district
34 and which would be exempt from taxation under the provisions of this
35 act if purchased directly by such political subdivision or district. Nothing
36 in this subsection or in the provisions of K.S.A. 12-3418 and amendments
37 thereto, shall be deemed to exempt the purchase of any construction
38 machinery, equipment or tools used in the constructing, equipping, re-
39 constructing, maintaining, repairing, enlarging, furnishing or remodeling
40 facilities for any political subdivision of the state or any such district. As
41 used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments
42 thereto, "funds of a political subdivision" shall mean general tax revenues,
43 the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean

1 funds used for the purpose of constructing, equipping, reconstructing,
2 repairing, enlarging, furnishing or remodeling facilities which are to be
3 leased to the donor. When any political subdivision of the state, district
4 described in subsection (s), public or private nonprofit hospital or public
5 hospital authority, public or private elementary or secondary school, pub-
6 lic or private nonprofit educational institution, state correctional institu-
7 tion including a privately constructed correctional institution contracted
8 for state use and ownership shall contract for the purpose of constructing,
9 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
10 or remodeling facilities, it shall obtain from the state and furnish to the
11 contractor an exemption certificate for the project involved, and the con-
12 tractor may purchase materials for incorporation in such project. The
13 contractor shall furnish the number of such certificate to all suppliers
14 from whom such purchases are made, and such suppliers shall execute
15 invoices covering the same bearing the number of such certificate. Upon
16 completion of the project the contractor shall furnish to the political sub-
17 division, district described in subsection (s), hospital or public hospital
18 authority, school, educational institution or department of corrections
19 concerned a sworn statement, on a form to be provided by the director
20 of taxation, that all purchases so made were entitled to exemption under
21 this subsection. As an alternative to the foregoing procedure, any such
22 contracting entity may apply to the secretary of revenue for agent status
23 for the sole purpose of issuing and furnishing project exemption certifi-
24 cates to contractors pursuant to rules and regulations adopted by the
25 secretary establishing conditions and standards for the granting and main-
26 taining of such status. All invoices shall be held by the contractor for a
27 period of five years and shall be subject to audit by the director of taxation.
28 If any materials purchased under such a certificate are found not to have
29 been incorporated in the building or other project or not to have been
30 returned for credit or the sales or compensating tax otherwise imposed
31 upon such materials which will not be so incorporated in the building or
32 other project reported and paid by such contractor to the director of
33 taxation not later than the 20th day of the month following the close of
34 the month in which it shall be determined that such materials will not be
35 used for the purpose for which such certificate was issued, the political
36 subdivision, district described in subsection (s), hospital or public hospital
37 authority, school, educational institution or the contractor contracting
38 with the department of corrections for a correctional institution con-
39 cerned shall be liable for tax on all materials purchased for the project,
40 and upon payment thereof it may recover the same from the contractor
41 together with reasonable attorney fees. Any contractor or any agent, em-
42 ployee or subcontractor thereof, who shall use or otherwise dispose of
43 any materials purchased under such a certificate for any purpose other

1 than that for which such a certificate is issued without the payment of
2 the sales or compensating tax otherwise imposed upon such materials,
3 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
4 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
5 and amendments thereto;

6 (e) all sales of tangible personal property or services purchased by a
7 contractor for the erection, repair or enlargement of buildings or other
8 projects for the government of the United States, its agencies or instru-
9 mentalities, which would be exempt from taxation if purchased directly
10 by the government of the United States, its agencies or instrumentalities.
11 When the government of the United States, its agencies or instrumen-
12 talities shall contract for the erection, repair, or enlargement of any build-
13 ing or other project, it shall obtain from the state and furnish to the
14 contractor an exemption certificate for the project involved, and the con-
15 tractor may purchase materials for incorporation in such project. The
16 contractor shall furnish the number of such certificates to all suppliers
17 from whom such purchases are made, and such suppliers shall execute
18 invoices covering the same bearing the number of such certificate. Upon
19 completion of the project the contractor shall furnish to the government
20 of the United States, its agencies or instrumentalities concerned a sworn
21 statement, on a form to be provided by the director of taxation, that all
22 purchases so made were entitled to exemption under this subsection. As
23 an alternative to the foregoing procedure, any such contracting entity may
24 apply to the secretary of revenue for agent status for the sole purpose of
25 issuing and furnishing project exemption certificates to contractors pur-
26 suant to rules and regulations adopted by the secretary establishing con-
27 ditions and standards for the granting and maintaining of such status. All
28 invoices shall be held by the contractor for a period of five years and shall
29 be subject to audit by the director of taxation. Any contractor or any agent,
30 employee or subcontractor thereof, who shall use or otherwise dispose of
31 any materials purchased under such a certificate for any purpose other
32 than that for which such a certificate is issued without the payment of
33 the sales or compensating tax otherwise imposed upon such materials,
34 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
35 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
36 and amendments thereto;

37 (f) tangible personal property purchased by a railroad or public utility
38 for consumption or movement directly and immediately in interstate
39 commerce;

40 (g) sales of aircraft including remanufactured and modified aircraft
41 sold to persons using directly or through an authorized agent such aircraft
42 as certified or licensed carriers of persons or property in interstate or
43 foreign commerce under authority of the laws of the United States or any

- 1 foreign government or sold to any foreign government or agency or in-
2 strumentality of such foreign government and all sales of aircraft for use
3 outside of the United States and sales of aircraft repair, modification and
4 replacement parts and sales of services employed in the remanufacture,
5 modification and repair of aircraft;
- 6 (h) all rentals of nonsectarian textbooks by public or private elemen-
7 tary or secondary schools;
- 8 (i) the lease or rental of all films, records, tapes, or any type of sound
9 or picture transcriptions used by motion picture exhibitors;
- 10 (j) meals served without charge or food used in the preparation of
11 such meals to employees of any restaurant, eating house, dining car, hotel,
12 drugstore or other place where meals or drinks are regularly sold to the
13 public if such employees' duties are related to the furnishing or sale of
14 such meals or drinks;
- 15 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
16 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and
17 delivered in this state to a bona fide resident of another state, which motor
18 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
19 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
20 remain in this state more than 10 days;
- 21 (l) all isolated or occasional sales of tangible personal property, serv-
22 ices, substances or things, except isolated or occasional sale of motor
23 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
24 79-3603 and amendments thereto;
- 25 (m) all sales of tangible personal property which become an ingre-
26 dient or component part of tangible personal property or services pro-
27 duced, manufactured or compounded for ultimate sale at retail within or
28 without the state of Kansas; and any such producer, manufacturer or
29 compounder may obtain from the director of taxation and furnish to the
30 supplier an exemption certificate number for tangible personal property
31 for use as an ingredient or component part of the property or services
32 produced, manufactured or compounded;
- 33 (n) all sales of tangible personal property which is consumed in the
34 production, manufacture, processing, mining, drilling, refining or com-
35 pounding of tangible personal property, the treating of by-products or
36 wastes derived from any such production process, the providing of serv-
37 ices or the irrigation of crops for ultimate sale at retail within or without
38 the state of Kansas; and any purchaser of such property may obtain from
39 the director of taxation and furnish to the supplier an exemption certifi-
40 cate number for tangible personal property for consumption in such pro-
41 duction, manufacture, processing, mining, drilling, refining, compound-
42 ing, treating, irrigation and in providing such services;
- 43 (o) all sales of animals, fowl and aquatic plants and animals, the pri-

1 mary purpose of which is use in agriculture or aquaculture, as defined in
2 K.S.A. 47-1901, and amendments thereto, the production of food for
3 human consumption, the production of animal, dairy, poultry or aquatic
4 plant and animal products, fiber or fur, or the production of offspring for
5 use for any such purpose or purposes;

6 (p) all sales of drugs dispensed pursuant to a prescription order by a
7 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
8 1626, and amendments thereto. As used in this subsection, “drug” means
9 a compound, substance or preparation and any component of a com-
10 pound, substance or preparation, other than food and food ingredients,
11 dietary supplements or alcoholic beverages, recognized in the official
12 United States pharmacopoeia, official homeopathic pharmacopoeia of the
13 United States or official national formulary, and supplement to any of
14 them, intended for use in the diagnosis, cure, mitigation, treatment or
15 prevention of disease or intended to affect the structure or any function
16 of the body;

17 (q) all sales of insulin dispensed by a person licensed by the state
18 board of pharmacy to a person for treatment of diabetes at the direction
19 of a person licensed to practice medicine by the board of healing arts;

20 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
21 enteral feeding systems, prosthetic devices and mobility enhancing equip-
22 ment prescribed in writing by a person licensed to practice the healing
23 arts, dentistry or optometry, and in addition to such sales, all sales of
24 hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amend-
25 ments thereto, and repair and replacement parts therefor, including bat-
26 teries, by a person licensed in the practice of dispensing and fitting hear-
27 ing aids pursuant to the provisions of K.S.A. 74-5808, and amendments
28 thereto. For the purposes of this subsection: (1) “Mobility enhancing
29 equipment” means equipment including repair and replacement parts to
30 same, but does not include durable medical equipment, which is primarily
31 and customarily used to provide or increase the ability to move from one
32 place to another and which is appropriate for use either in a home or a
33 motor vehicle; is not generally used by persons with normal mobility; and
34 does not include any motor vehicle or equipment on a motor vehicle
35 normally provided by a motor vehicle manufacturer; and (2) “prosthetic
36 device” means a replacement, corrective or supportive device including
37 repair and replacement parts for same worn on or in the body to artificially
38 replace a missing portion of the body, prevent or correct physical defor-
39 mity or malfunction or support a weak or deformed portion of the body;

40 (s) except as provided in K.S.A. 2008 Supp. 82a-2101, and amend-
41 ments thereto, all sales of tangible personal property or services pur-
42 chased directly or indirectly by a groundwater management district or
43 organized or operating under the authority of K.S.A. 82a-1020 et seq. and

1 amendments thereto, by a rural water district organized or operating under the authority of K.S.A. 82a-612, and amendments thereto, or by a
2 water supply district organized or operating under the authority of K.S.A.
3 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
4 which property or services are used in the construction activities, operation
5 or maintenance of the district;
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7 (t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and
8 equipment. For the purposes of this subsection the term “farm machinery and equipment or aquaculture machinery and equipment” shall include
9 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
10 thereto, and is equipped with a bed or cargo box for hauling materials,
11 and shall also include machinery and equipment used in the operation of
12 Christmas tree farming but shall not include any passenger vehicle, truck,
13 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
14 as such terms are defined by K.S.A. 8-126 and amendments thereto.
15 “Farm machinery and equipment” includes precision farming equipment
16 that is portable or is installed or purchased to be installed on farm
17 machinery and equipment. “Precision farming equipment” includes the following items used only in computer-assisted farming, ranching or aquaculture production operations: Soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guiding systems, modems, data communications equipment and any necessary mounting hardware, wiring and antennas. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;
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33 (u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;
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36 (v) all sales of tangible personal property to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of
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1 service designated by the private nonprofit organization, and all sales of
2 tangible personal property for use in preparing meals for consumption by
3 indigent or homeless individuals whether or not such meals are consumed
4 at a place designated for such purpose, and all sales of food products by
5 or on behalf of any such contractor or organization for any such purpose;
6 (w) all sales of natural gas, electricity, heat and water delivered
7 through mains, lines or pipes: (1) To residential premises for noncom-
8 mercial use by the occupant of such premises; (2) for agricultural use and
9 also, for such use, all sales of propane gas; (3) for use in the severing of
10 oil; and (4) to any property which is exempt from property taxation pur-
11 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
12 “severing” shall have the meaning ascribed thereto by subsection (k) of
13 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
14 electricity and heat delivered through mains, lines or pipes pursuant to
15 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
16 section shall expire on December 31, 2005;

17 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
18 for the production of heat or lighting for noncommercial use of an oc-
19 cupant of residential premises occurring prior to January 1, 2006;

20 (y) all sales of materials and services used in the repairing, servicing,
21 altering, maintaining, manufacturing, remanufacturing, or modification of
22 railroad rolling stock for use in interstate or foreign commerce under
23 authority of the laws of the United States;

24 (z) all sales of tangible personal property and services purchased di-
25 rectly by a port authority or by a contractor therefor as provided by the
26 provisions of K.S.A. 12-3418 and amendments thereto;

27 (aa) all sales of materials and services applied to equipment which is
28 transported into the state from without the state for repair, service, al-
29 teration, maintenance, remanufacture or modification and which is sub-
30 sequently transported outside the state for use in the transmission of
31 liquids or natural gas by means of pipeline in interstate or foreign com-
32 merce under authority of the laws of the United States;

33 (bb) all sales of used mobile homes or manufactured homes. As used
34 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
35 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
36 thereto; and (2) “sales of used mobile homes or manufactured homes”
37 means sales other than the original retail sale thereof;

38 (cc) all sales of tangible personal property or services purchased for
39 the purpose of and in conjunction with constructing, reconstructing, en-
40 larging or remodeling a business or retail business which meets the
41 requirements established in K.S.A. 74-50,115 and amendments thereto,
42 and the sale and installation of machinery and equipment purchased for
43 installation at any such business or retail business. When a person shall

1 contract for the construction, reconstruction, enlargement or remodeling
2 of any such business or retail business, such person shall obtain from the
3 state and furnish to the contractor an exemption certificate for the project
4 involved, and the contractor may purchase materials, machinery and
5 equipment for incorporation in such project. The contractor shall furnish
6 the number of such certificates to all suppliers from whom such purchases
7 are made, and such suppliers shall execute invoices covering the same
8 bearing the number of such certificate. Upon completion of the project
9 the contractor shall furnish to the owner of the business or retail business
10 a sworn statement, on a form to be provided by the director of taxation,
11 that all purchases so made were entitled to exemption under this subsec-
12 tion. All invoices shall be held by the contractor for a period of five years
13 and shall be subject to audit by the director of taxation. Any contractor
14 or any agent, employee or subcontractor thereof, who shall use or oth-
15 erwise dispose of any materials, machinery or equipment purchased un-
16 der such a certificate for any purpose other than that for which such a
17 certificate is issued without the payment of the sales or compensating tax
18 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
19 conviction therefor, shall be subject to the penalties provided for in sub-
20 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
21 subsection, "business" and "retail business" have the meanings respec-
22 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

23 (dd) all sales of tangible personal property purchased with food
24 stamps issued by the United States department of agriculture;

25 (ee) all sales of lottery tickets and shares made as part of a lottery
26 operated by the state of Kansas;

27 (ff) on and after July 1, 1988, all sales of new mobile homes or man-
28 ufactured homes to the extent of 40% of the gross receipts, determined
29 without regard to any trade-in allowance, received from such sale. As used
30 in this subsection, "mobile homes" and "manufactured homes" shall have
31 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
32 thereto;

33 (gg) all sales of tangible personal property purchased in accordance
34 with vouchers issued pursuant to the federal special supplemental food
35 program for women, infants and children;

36 (hh) all sales of medical supplies and equipment, including durable
37 medical equipment, purchased directly by a nonprofit skilled nursing
38 home or nonprofit intermediate nursing care home, as defined by K.S.A.
39 39-923, and amendments thereto, for the purpose of providing medical
40 services to residents thereof. This exemption shall not apply to tangible
41 personal property customarily used for human habitation purposes. As
42 used in this subsection, "durable medical equipment" means equipment
43 including repair and replacement parts for such equipment, which can

1 withstand repeated use, is primarily and customarily used to serve a med-
2 ical purpose, generally is not useful to a person in the absence of illness
3 or injury and is not worn in or on the body, but does not include mobility
4 enhancing equipment as defined in subsection (r), oxygen delivery equip-
5 ment, kidney dialysis equipment or enteral feeding systems;

6 (ii) all sales of tangible personal property purchased directly by a non-
7 profit organization for nonsectarian comprehensive multidiscipline youth
8 development programs and activities provided or sponsored by such or-
9 ganization, and all sales of tangible personal property by or on behalf of
10 any such organization. This exemption shall not apply to tangible personal
11 property customarily used for human habitation purposes;

12 (jj) all sales of tangible personal property or services, including the
13 renting and leasing of tangible personal property, purchased directly on
14 behalf of a community-based mental retardation facility or mental health
15 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
16 thereto, and licensed in accordance with the provisions of K.S.A. 75-
17 3307b and amendments thereto and all sales of tangible personal property
18 or services purchased by contractors during the time period from July,
19 2003, through June, 2006, for the purpose of constructing, equipping,
20 maintaining or furnishing a new facility for a community-based mental
21 retardation facility or mental health center located in Riverton, Cherokee
22 County, Kansas, which would have been eligible for sales tax exemption
23 pursuant to this subsection if purchased directly by such facility or center.
24 This exemption shall not apply to tangible personal property customarily
25 used for human habitation purposes;

26 (kk) (1) (A) all sales of machinery and equipment which are used in
27 this state as an integral or essential part of an integrated production op-
28 eration by a manufacturing or processing plant or facility;

29 (B) all sales of installation, repair and maintenance services per-
30 formed on such machinery and equipment; and

31 (C) all sales of repair and replacement parts and accessories pur-
32 chased for such machinery and equipment.

33 (2) For purposes of this subsection:

34 (A) "Integrated production operation" means an integrated series of
35 operations engaged in at a manufacturing or processing plant or facility
36 to process, transform or convert tangible personal property by physical,
37 chemical or other means into a different form, composition or character
38 from that in which it originally existed. Integrated production operations
39 shall include: (i) Production line operations, including packaging opera-
40 tions; (ii) preproduction operations to handle, store and treat raw mate-
41 rials; (iii) post production handling, storage, warehousing and distribution
42 operations; and (iv) waste, pollution and environmental control opera-
43 tions, if any;

1 (B) “production line” means the assemblage of machinery and equip-
2 ment at a manufacturing or processing plant or facility where the actual
3 transformation or processing of tangible personal property occurs;

4 (C) “manufacturing or processing plant or facility” means a single,
5 fixed location owned or controlled by a manufacturing or processing busi-
6 ness that consists of one or more structures or buildings in a contiguous
7 area where integrated production operations are conducted to manufac-
8 ture or process tangible personal property to be ultimately sold at retail.
9 Such term shall not include any facility primarily operated for the purpose
10 of conveying or assisting in the conveyance of natural gas, electricity, oil
11 or water. A business may operate one or more manufacturing or process-
12 ing plants or facilities at different locations to manufacture or process
13 a single product of tangible personal property to be ultimately sold at
14 retail;

15 (D) “manufacturing or processing business” means a business that
16 utilizes an integrated production operation to manufacture, process, fab-
17 ricate, finish, or assemble items for wholesale and retail distribution as
18 part of what is commonly regarded by the general public as an industrial
19 manufacturing or processing operation or an agricultural commodity
20 processing operation. (i) Industrial manufacturing or processing opera-
21 tions include, by way of illustration but not of limitation, the fabrication
22 of automobiles, airplanes, machinery or transportation equipment, the
23 fabrication of metal, plastic, wood, or paper products, electricity power
24 generation, water treatment, petroleum refining, chemical production,
25 wholesale bottling, newspaper printing, ready mixed concrete production,
26 and the remanufacturing of used parts for wholesale or retail sale. Such
27 processing operations shall include operations at an oil well, gas well, mine
28 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
29 or gravel that has been extracted from the earth is cleaned, separated,
30 crushed, ground, milled, screened, washed, or otherwise treated or pre-
31 pared before its transmission to a refinery or before any other wholesale
32 or retail distribution. (ii) Agricultural commodity processing operations
33 include, by way of illustration but not of limitation, meat packing, poultry
34 slaughtering and dressing, processing and packaging farm and dairy prod-
35 ucts in sealed containers for wholesale and retail distribution, feed grind-
36 ing, grain milling, frozen food processing, and grain handling, cleaning,
37 blending, fumigation, drying and aeration operations engaged in by grain
38 elevators or other grain storage facilities. (iii) Manufacturing or processing
39 businesses do not include, by way of illustration but not of limitation,
40 nonindustrial businesses whose operations are primarily retail and that
41 produce or process tangible personal property as an incidental part of
42 conducting the retail business, such as retailers who bake, cook or prepare
43 food products in the regular course of their retail trade, grocery stores,

1 meat lockers and meat markets that butcher or dress livestock or poultry
2 in the regular course of their retail trade, contractors who alter, service,
3 repair or improve real property, and retail businesses that clean, service
4 or refurbish and repair tangible personal property for its owner;

5 (E) “repair and replacement parts and accessories” means all parts
6 and accessories for exempt machinery and equipment, including, but not
7 limited to, dies, jigs, molds, patterns and safety devices that are attached
8 to exempt machinery or that are otherwise used in production, and parts
9 and accessories that require periodic replacement such as belts, drill bits,
10 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
11 other refractory items for exempt kiln equipment used in production
12 operations;

13 (F) “primary” or “primarily” mean more than 50% of the time.

14 (3) For purposes of this subsection, machinery and equipment shall
15 be deemed to be used as an integral or essential part of an integrated
16 production operation when used:

17 (A) To receive, transport, convey, handle, treat or store raw materials
18 in preparation of its placement on the production line;

19 (B) to transport, convey, handle or store the property undergoing
20 manufacturing or processing at any point from the beginning of the pro-
21 duction line through any warehousing or distribution operation of the
22 final product that occurs at the plant or facility;

23 (C) to act upon, effect, promote or otherwise facilitate a physical
24 change to the property undergoing manufacturing or processing;

25 (D) to guide, control or direct the movement of property undergoing
26 manufacturing or processing;

27 (E) to test or measure raw materials, the property undergoing man-
28 ufacturing or processing or the finished product, as a necessary part of
29 the manufacturer’s integrated production operations;

30 (F) to plan, manage, control or record the receipt and flow of inven-
31 tories of raw materials, consumables and component parts, the flow of
32 the property undergoing manufacturing or processing and the manage-
33 ment of inventories of the finished product;

34 (G) to produce energy for, lubricate, control the operating of or oth-
35 erwise enable the functioning of other production machinery and equip-
36 ment and the continuation of production operations;

37 (H) to package the property being manufactured or processed in a
38 container or wrapping in which such property is normally sold or
39 transported;

40 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
41 ilar substances used in production operations from the point of genera-
42 tion, if produced by the manufacturer or processor at the plant site, to
43 that manufacturer’s production operation; or, if purchased or delivered

1 from offsite, from the point where the substance enters the site of the
2 plant or facility to that manufacturer's production operations;

3 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
4 oil, solvents or other substances that are used in production operations;

5 (K) to provide and control an environment required to maintain cer-
6 tain levels of air quality, humidity or temperature in special and limited
7 areas of the plant or facility, where such regulation of temperature or
8 humidity is part of and essential to the production process;

9 (L) to treat, transport or store waste or other byproducts of produc-
10 tion operations at the plant or facility; or

11 (M) to control pollution at the plant or facility where the pollution is
12 produced by the manufacturing or processing operation.

13 (4) The following machinery, equipment and materials shall be
14 deemed to be exempt even though it may not otherwise qualify as ma-
15 chinery and equipment used as an integral or essential part of an inte-
16 grated production operation: (A) Computers and related peripheral
17 equipment that are utilized by a manufacturing or processing business
18 for engineering of the finished product or for research and development
19 or product design; (B) machinery and equipment that is utilized by a
20 manufacturing or processing business to manufacture or rebuild tangible
21 personal property that is used in manufacturing or processing operations,
22 including tools, dies, molds, forms and other parts of qualifying machinery
23 and equipment; (C) portable plants for aggregate concrete, bulk cement
24 and asphalt including cement mixing drums to be attached to a motor
25 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
26 dations necessary for manufacturing and production operations, and ma-
27 terials and other tangible personal property sold for the purpose of fab-
28 ricating such fixtures, devices, facilities and foundations. An exemption
29 certificate for such purchases shall be signed by the manufacturer or
30 processor. If the fabricator purchases such material, the fabricator shall
31 also sign the exemption certificate; and (E) a manufacturing or processing
32 business' laboratory equipment that is not located at the plant or facility,
33 but that would otherwise qualify for exemption under subsection (3)(E).

34 (5) "Machinery and equipment used as an integral or essential part
35 of an integrated production operation" shall not include:

36 (A) Machinery and equipment used for nonproduction purposes, in-
37 cluding, but not limited to, machinery and equipment used for plant se-
38 curity, fire prevention, first aid, accounting, administration, record keep-
39 ing, advertising, marketing, sales or other related activities, plant cleaning,
40 plant communications, and employee work scheduling;

41 (B) machinery, equipment and tools used primarily in maintaining
42 and repairing any type of machinery and equipment or the building and
43 plant;

- 1 (C) transportation, transmission and distribution equipment not pri-
2 marily used in a production, warehousing or material handling operation
3 at the plant or facility, including the means of conveyance of natural gas,
4 electricity, oil or water, and equipment related thereto, located outside
5 the plant or facility;
- 6 (D) office machines and equipment including computers and related
7 peripheral equipment not used directly and primarily to control or mea-
8 sure the manufacturing process;
- 9 (E) furniture and other furnishings;
- 10 (F) buildings, other than exempt machinery and equipment that is
11 permanently affixed to or becomes a physical part of the building, and
12 any other part of real estate that is not otherwise exempt;
- 13 (G) building fixtures that are not integral to the manufacturing op-
14 eration, such as utility systems for heating, ventilation, air conditioning,
15 communications, plumbing or electrical;
- 16 (H) machinery and equipment used for general plant heating, cooling
17 and lighting;
- 18 (I) motor vehicles that are registered for operation on public high-
19 ways; or
- 20 (J) employee apparel, except safety and protective apparel that is pur-
21 chased by an employer and furnished gratuitously to employees who are
22 involved in production or research activities.
- 23 (6) Subsections (3) and (5) shall not be construed as exclusive listings
24 of the machinery and equipment that qualify or do not qualify as an
25 integral or essential part of an integrated production operation. When
26 machinery or equipment is used as an integral or essential part of pro-
27 duction operations part of the time and for nonproduction purpose at
28 other times, the primary use of the machinery or equipment shall deter-
29 mine whether or not such machinery or equipment qualifies for
30 exemption.
- 31 (7) The secretary of revenue shall adopt rules and regulations nec-
32 essary to administer the provisions of this subsection;
- 33 (ll) all sales of educational materials purchased for distribution to the
34 public at no charge by a nonprofit corporation organized for the purpose
35 of encouraging, fostering and conducting programs for the improvement
36 of public health;
- 37 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
38 herbicides, germicides, pesticides and fungicides; and services, purchased
39 and used for the purpose of producing plants in order to prevent soil
40 erosion on land devoted to agricultural use;
- 41 (nn) except as otherwise provided in this act, all sales of services ren-
42 dered by an advertising agency or licensed broadcast station or any mem-
43 ber, agent or employee thereof;

- 1 (oo) all sales of tangible personal property purchased by a community
2 action group or agency for the exclusive purpose of repairing or weath-
3 erizing housing occupied by low income individuals;
- 4 (pp) all sales of drill bits and explosives actually utilized in the explo-
5 ration and production of oil or gas;
- 6 (qq) all sales of tangible personal property and services purchased by
7 a nonprofit museum or historical society or any combination thereof, in-
8 cluding a nonprofit organization which is organized for the purpose of
9 stimulating public interest in the exploration of space by providing edu-
10 cational information, exhibits and experiences, which is exempt from fed-
11 eral income taxation pursuant to section 501(c)(3) of the federal internal
12 revenue code of 1986;
- 13 (rr) all sales of tangible personal property which will admit the pur-
14 chaser thereof to any annual event sponsored by a nonprofit organization
15 which is exempt from federal income taxation pursuant to section
16 501(c)(3) of the federal internal revenue code of 1986;
- 17 (ss) all sales of tangible personal property and services purchased by
18 a public broadcasting station licensed by the federal communications
19 commission as a noncommercial educational television or radio station;
- 20 (tt) all sales of tangible personal property and services purchased by
21 or on behalf of a not-for-profit corporation which is exempt from federal
22 income taxation pursuant to section 501(c)(3) of the federal internal rev-
23 enue code of 1986, for the sole purpose of constructing a Kansas Korean
24 War memorial;
- 25 (uu) all sales of tangible personal property and services purchased by
26 or on behalf of any rural volunteer fire-fighting organization for use ex-
27 clusively in the performance of its duties and functions;
- 28 (vv) all sales of tangible personal property purchased by any of the
29 following organizations which are exempt from federal income taxation
30 pursuant to section 501 (c)(3) of the federal internal revenue code of
31 1986, for the following purposes, and all sales of any such property by or
32 on behalf of any such organization for any such purpose:
- 33 (1) The American Heart Association, Kansas Affiliate, Inc. for the
34 purposes of providing education, training, certification in emergency car-
35 diac care, research and other related services to reduce disability and
36 death from cardiovascular diseases and stroke;
- 37 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
38 advocacy for persons with mental illness and to education, research and
39 support for their families;
- 40 (3) the Kansas Mental Illness Awareness Council for the purposes of
41 advocacy for persons who are mentally ill and to education, research and
42 support for them and their families;
- 43 (4) the American Diabetes Association Kansas Affiliate, Inc. for the

- 1 purpose of eliminating diabetes through medical research, public edu-
2 cation focusing on disease prevention and education, patient education
3 including information on coping with diabetes, and professional education
4 and training;
- 5 (5) the American Lung Association of Kansas, Inc. for the purpose of
6 eliminating all lung diseases through medical research, public education
7 including information on coping with lung diseases, professional educa-
8 tion and training related to lung disease and other related services to
9 reduce the incidence of disability and death due to lung disease;
- 10 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
11 orders Association, Inc. for the purpose of providing assistance and sup-
12 port to persons in Kansas with Alzheimer's disease, and their families and
13 caregivers;
- 14 (7) the Kansas chapters of the Parkinson's disease association for the
15 purpose of eliminating Parkinson's disease through medical research and
16 public and professional education related to such disease;
- 17 (8) the National Kidney Foundation of Kansas and Western Missouri
18 for the purpose of eliminating kidney disease through medical research
19 and public and private education related to such disease;
- 20 (9) the heartstrings community foundation for the purpose of provid-
21 ing training, employment and activities for adults with developmental
22 disabilities;
- 23 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
24 the purposes of assuring the development of the means to cure and con-
25 trol cystic fibrosis and improving the quality of life for those with the
26 disease;
- 27 (11) the spina bifida association of Kansas for the purpose of provid-
28 ing financial, educational and practical aid to families and individuals with
29 spina bifida. Such aid includes, but is not limited to, funding for medical
30 devices, counseling and medical educational opportunities;
- 31 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-
32 borhoods through the construction of new homes, acquiring and reno-
33 vating existing homes and other related activities, and promoting eco-
34 nomic development in such neighborhoods;
- 35 (13) the cross-lines cooperative council for the purpose of providing
36 social services to low income individuals and families;
- 37 (14) the Dreams Work, Inc., for the purpose of providing young adult
38 day services to individuals with developmental disabilities and assisting
39 families in avoiding institutional or nursing home care for a developmen-
40 tally disabled member of their family;
- 41 (15) the KSDS, Inc., for the purpose of promoting the independence
42 and inclusion of people with disabilities as fully participating and contrib-
43 uting members of their communities and society through the training and

- 1 providing of guide and service dogs to people with disabilities, and pro-
2 viding disability education and awareness to the general public;
- 3 (16) the lyme association of greater Kansas City, Inc., for the purpose
4 of providing support to persons with lyme disease and public education
5 relating to the prevention, treatment and cure of lyme disease;
- 6 (17) the Dream Factory, Inc., for the purpose of granting the dreams
7 of children with critical and chronic illnesses;
- 8 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
9 students and families with education and resources necessary to enable
10 each child to develop fine character and musical ability to the fullest
11 potential;
- 12 (19) the International Association of Lions Clubs for the purpose of
13 creating and fostering a spirit of understanding among all people for hu-
14 manitarian needs by providing voluntary services through community in-
15 volvement and international cooperation;
- 16 (20) the Johnson county young matrons, inc., for the purpose of pro-
17 moting a positive future for members of the community through volun-
18 teerism, financial support and education through the efforts of an all
19 volunteer organization;
- 20 (21) the American Cancer Society, Inc., for the purpose of eliminat-
21 ing cancer as a major health problem by preventing cancer, saving lives
22 and diminishing suffering from cancer, through research, education, ad-
23 vocacy and service;
- 24 (22) the community services of Shawnee, inc., for the purpose of
25 providing food and clothing to those in need; and
- 26 (23) the angel babies association, for the purpose of providing assis-
27 tance, support and items of necessity to teenage mothers and their babies;
- 28 (ww) all sales of tangible personal property purchased by the Habitat
29 for Humanity for the exclusive use of being incorporated within a housing
30 project constructed by such organization;
- 31 (xx) all sales of tangible personal property and services purchased by
32 a nonprofit zoo which is exempt from federal income taxation pursuant
33 to section 501(c)(3) of the federal internal revenue code of 1986, or on
34 behalf of such zoo by an entity itself exempt from federal income taxation
35 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
36 contracted with to operate such zoo and all sales of tangible personal
37 property or services purchased by a contractor for the purpose of con-
38 structing, equipping, reconstructing, maintaining, repairing, enlarging,
39 furnishing or remodeling facilities for any nonprofit zoo which would be
40 exempt from taxation under the provisions of this section if purchased
41 directly by such nonprofit zoo or the entity operating such zoo. Nothing
42 in this subsection shall be deemed to exempt the purchase of any con-
43 struction machinery, equipment or tools used in the constructing, equip-

1 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
2 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
3 contract for the purpose of constructing, equipping, reconstructing, main-
4 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
5 obtain from the state and furnish to the contractor an exemption certifi-
6 cate for the project involved, and the contractor may purchase materials
7 for incorporation in such project. The contractor shall furnish the number
8 of such certificate to all suppliers from whom such purchases are made,
9 and such suppliers shall execute invoices covering the same bearing the
10 number of such certificate. Upon completion of the project the contractor
11 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
12 to be provided by the director of taxation, that all purchases so made were
13 entitled to exemption under this subsection. All invoices shall be held by
14 the contractor for a period of five years and shall be subject to audit by
15 the director of taxation. If any materials purchased under such a certifi-
16 cate are found not to have been incorporated in the building or other
17 project or not to have been returned for credit or the sales or compen-
18 sating tax otherwise imposed upon such materials which will not be so
19 incorporated in the building or other project reported and paid by such
20 contractor to the director of taxation not later than the 20th day of the
21 month following the close of the month in which it shall be determined
22 that such materials will not be used for the purpose for which such cer-
23 tificate was issued, the nonprofit zoo concerned shall be liable for tax on
24 all materials purchased for the project, and upon payment thereof it may
25 recover the same from the contractor together with reasonable attorney
26 fees. Any contractor or any agent, employee or subcontractor thereof,
27 who shall use or otherwise dispose of any materials purchased under such
28 a certificate for any purpose other than that for which such a certificate
29 is issued without the payment of the sales or compensating tax otherwise
30 imposed upon such materials, shall be guilty of a misdemeanor and, upon
31 conviction therefor, shall be subject to the penalties provided for in sub-
32 section (g) of K.S.A. 79-3615, and amendments thereto;

33 (yy) all sales of tangible personal property and services purchased by
34 a parent-teacher association or organization, and all sales of tangible per-
35 sonal property by or on behalf of such association or organization;

36 (zz) all sales of machinery and equipment purchased by over-the-air,
37 free access radio or television station which is used directly and primarily
38 for the purpose of producing a broadcast signal or is such that the failure
39 of the machinery or equipment to operate would cause broadcasting to
40 cease. For purposes of this subsection, machinery and equipment shall
41 include, but not be limited to, that required by rules and regulations of
42 the federal communications commission, and all sales of electricity which
43 are essential or necessary for the purpose of producing a broadcast signal

1 or is such that the failure of the electricity would cause broadcasting to
2 cease;

3 (aaa) all sales of tangible personal property and services purchased
4 by a religious organization which is exempt from federal income taxation
5 pursuant to section 501(c)(3) of the federal internal revenue code, and
6 used exclusively for religious purposes, and all sales of tangible personal
7 property or services purchased by a contractor for the purpose of con-
8 structing, equipping, reconstructing, maintaining, repairing, enlarging,
9 furnishing or remodeling facilities for any such organization which would
10 be exempt from taxation under the provisions of this section if purchased
11 directly by such organization. Nothing in this subsection shall be deemed
12 to exempt the purchase of any construction machinery, equipment or
13 tools used in the constructing, equipping, reconstructing, maintaining,
14 repairing, enlarging, furnishing or remodeling facilities for any such or-
15 ganization. When any such organization shall contract for the purpose of
16 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
17 ing, furnishing or remodeling facilities, it shall obtain from the state and
18 furnish to the contractor an exemption certificate for the project involved,
19 and the contractor may purchase materials for incorporation in such pro-
20 ject. The contractor shall furnish the number of such certificate to all
21 suppliers from whom such purchases are made, and such suppliers shall
22 execute invoices covering the same bearing the number of such certifi-
23 cate. Upon completion of the project the contractor shall furnish to such
24 organization concerned a sworn statement, on a form to be provided by
25 the director of taxation, that all purchases so made were entitled to ex-
26 emption under this subsection. All invoices shall be held by the contractor
27 for a period of five years and shall be subject to audit by the director of
28 taxation. If any materials purchased under such a certificate are found
29 not to have been incorporated in the building or other project or not to
30 have been returned for credit or the sales or compensating tax otherwise
31 imposed upon such materials which will not be so incorporated in the
32 building or other project reported and paid by such contractor to the
33 director of taxation not later than the 20th day of the month following
34 the close of the month in which it shall be determined that such materials
35 will not be used for the purpose for which such certificate was issued,
36 such organization concerned shall be liable for tax on all materials pur-
37 chased for the project, and upon payment thereof it may recover the same
38 from the contractor together with reasonable attorney fees. Any contrac-
39 tor or any agent, employee or subcontractor thereof, who shall use or
40 otherwise dispose of any materials purchased under such a certificate for
41 any purpose other than that for which such a certificate is issued without
42 the payment of the sales or compensating tax otherwise imposed upon
43 such materials, shall be guilty of a misdemeanor and, upon conviction

1 therefor, shall be subject to the penalties provided for in subsection (g)
2 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
3 July 1, 1998, but prior to the effective date of this act upon the gross
4 receipts received from any sale exempted by the amendatory provisions
5 of this subsection shall be refunded. Each claim for a sales tax refund
6 shall be verified and submitted to the director of taxation upon forms
7 furnished by the director and shall be accompanied by any additional
8 documentation required by the director. The director shall review each
9 claim and shall refund that amount of sales tax paid as determined under
10 the provisions of this subsection. All refunds shall be paid from the sales
11 tax refund fund upon warrants of the director of accounts and reports
12 pursuant to vouchers approved by the director or the director's designee;

13 (bbb) all sales of food for human consumption by an organization
14 which is exempt from federal income taxation pursuant to section 501
15 (c)(3) of the federal internal revenue code of 1986, pursuant to a food
16 distribution program which offers such food at a price below cost in
17 exchange for the performance of community service by the purchaser
18 thereof;

19 (ccc) on and after July 1, 1999, all sales of tangible personal property
20 and services purchased by a primary care clinic or health center the pri-
21 mary purpose of which is to provide services to medically underserved
22 individuals and families, and which is exempt from federal income taxa-
23 tion pursuant to section 501 (c)(3) of the federal internal revenue code,
24 and all sales of tangible personal property or services purchased by a
25 contractor for the purpose of constructing, equipping, reconstructing,
26 maintaining, repairing, enlarging, furnishing or remodeling facilities for
27 any such clinic or center which would be exempt from taxation under the
28 provisions of this section if purchased directly by such clinic or center.
29 Nothing in this subsection shall be deemed to exempt the purchase of
30 any construction machinery, equipment or tools used in the constructing,
31 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
32 or remodeling facilities for any such clinic or center. When any such clinic
33 or center shall contract for the purpose of constructing, equipping, re-
34 constructing, maintaining, repairing, enlarging, furnishing or remodeling
35 facilities, it shall obtain from the state and furnish to the contractor an
36 exemption certificate for the project involved, and the contractor may
37 purchase materials for incorporation in such project. The contractor shall
38 furnish the number of such certificate to all suppliers from whom such
39 purchases are made, and such suppliers shall execute invoices covering
40 the same bearing the number of such certificate. Upon completion of the
41 project the contractor shall furnish to such clinic or center concerned a
42 sworn statement, on a form to be provided by the director of taxation,
43 that all purchases so made were entitled to exemption under this subsec-

1 tion. All invoices shall be held by the contractor for a period of five years
2 and shall be subject to audit by the director of taxation. If any materials
3 purchased under such a certificate are found not to have been incorpo-
4 rated in the building or other project or not to have been returned for
5 credit or the sales or compensating tax otherwise imposed upon such
6 materials which will not be so incorporated in the building or other pro-
7 ject reported and paid by such contractor to the director of taxation not
8 later than the 20th day of the month following the close of the month in
9 which it shall be determined that such materials will not be used for the
10 purpose for which such certificate was issued, such clinic or center con-
11 cerned shall be liable for tax on all materials purchased for the project,
12 and upon payment thereof it may recover the same from the contractor
13 together with reasonable attorney fees. Any contractor or any agent, em-
14 ployee or subcontractor thereof, who shall use or otherwise dispose of
15 any materials purchased under such a certificate for any purpose other
16 than that for which such a certificate is issued without the payment of
17 the sales or compensating tax otherwise imposed upon such materials,
18 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
19 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
20 and amendments thereto;

21 (ddd) on and after January 1, 1999, and before January 1, 2000, all
22 sales of materials and services purchased by any class II or III railroad as
23 classified by the federal surface transportation board for the construction,
24 renovation, repair or replacement of class II or III railroad track and
25 facilities used directly in interstate commerce. In the event any such track
26 or facility for which materials and services were purchased sales tax ex-
27 empt is not operational for five years succeeding the allowance of such
28 exemption, the total amount of sales tax which would have been payable
29 except for the operation of this subsection shall be recouped in accord-
30 ance with rules and regulations adopted for such purpose by the secretary
31 of revenue;

32 (eee) on and after January 1, 1999, and before January 1, 2001, all
33 sales of materials and services purchased for the original construction,
34 reconstruction, repair or replacement of grain storage facilities, including
35 railroad sidings providing access thereto;

36 (fff) all sales of material handling equipment, racking systems and
37 other related machinery and equipment that is used for the handling,
38 movement or storage of tangible personal property in a warehouse or
39 distribution facility in this state; all sales of installation, repair and main-
40 tenance services performed on such machinery and equipment; and all
41 sales of repair and replacement parts for such machinery and equipment.
42 For purposes of this subsection, a warehouse or distribution facility means
43 a single, fixed location that consists of buildings or structures in a contig-

1 uous area where storage or distribution operations are conducted that are
2 separate and apart from the business' retail operations, if any, and which
3 do not otherwise qualify for exemption as occurring at a manufacturing
4 or processing plant or facility. Material handling and storage equipment
5 shall include aeration, dust control, cleaning, handling and other such
6 equipment that is used in a public grain warehouse or other commercial
7 grain storage facility, whether used for grain handling, grain storage, grain
8 refining or processing, or other grain treatment operation;

9 (ggg) all sales of tangible personal property and services purchased
10 by or on behalf of the Kansas Academy of Science which is exempt from
11 federal income taxation pursuant to section 501(c)(3) of the federal in-
12 ternal revenue code of 1986, and used solely by such academy for the
13 preparation, publication and dissemination of education materials;

14 (hhh) all sales of tangible personal property and services purchased
15 by or on behalf of all domestic violence shelters that are member agencies
16 of the Kansas coalition against sexual and domestic violence;

17 (iii) all sales of personal property and services purchased by an or-
18 ganization which is exempt from federal income taxation pursuant to sec-
19 tion 501(c)(3) of the federal internal revenue code of 1986, and which
20 such personal property and services are used by any such organization in
21 the collection, storage and distribution of food products to nonprofit or-
22 ganizations which distribute such food products to persons pursuant to a
23 food distribution program on a charitable basis without fee or charge, and
24 all sales of tangible personal property or services purchased by a contrac-
25 tor for the purpose of constructing, equipping, reconstructing, maintain-
26 ing, repairing, enlarging, furnishing or remodeling facilities used for the
27 collection and storage of such food products for any such organization
28 which is exempt from federal income taxation pursuant to section
29 501(c)(3) of the federal internal revenue code of 1986, which would be
30 exempt from taxation under the provisions of this section if purchased
31 directly by such organization. Nothing in this subsection shall be deemed
32 to exempt the purchase of any construction machinery, equipment or
33 tools used in the constructing, equipping, reconstructing, maintaining,
34 repairing, enlarging, furnishing or remodeling facilities for any such or-
35 ganization. When any such organization shall contract for the purpose of
36 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
37 ing, furnishing or remodeling facilities, it shall obtain from the state and
38 furnish to the contractor an exemption certificate for the project involved,
39 and the contractor may purchase materials for incorporation in such pro-
40 ject. The contractor shall furnish the number of such certificate to all
41 suppliers from whom such purchases are made, and such suppliers shall
42 execute invoices covering the same bearing the number of such certifi-
43 cate. Upon completion of the project the contractor shall furnish to such

1 organization concerned a sworn statement, on a form to be provided by
2 the director of taxation, that all purchases so made were entitled to ex-
3 emption under this subsection. All invoices shall be held by the contractor
4 for a period of five years and shall be subject to audit by the director of
5 taxation. If any materials purchased under such a certificate are found
6 not to have been incorporated in such facilities or not to have been re-
7 turned for credit or the sales or compensating tax otherwise imposed upon
8 such materials which will not be so incorporated in such facilities reported
9 and paid by such contractor to the director of taxation not later than the
10 20th day of the month following the close of the month in which it shall
11 be determined that such materials will not be used for the purpose for
12 which such certificate was issued, such organization concerned shall be
13 liable for tax on all materials purchased for the project, and upon payment
14 thereof it may recover the same from the contractor together with rea-
15 sonable attorney fees. Any contractor or any agent, employee or subcon-
16 tractor thereof, who shall use or otherwise dispose of any materials pur-
17 chased under such a certificate for any purpose other than that for which
18 such a certificate is issued without the payment of the sales or compen-
19 sating tax otherwise imposed upon such materials, shall be guilty of a
20 misdemeanor and, upon conviction therefor, shall be subject to the pen-
21 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
22 thereto. Sales tax paid on and after July 1, 2005, but prior to the effective
23 date of this act upon the gross receipts received from any sale exempted
24 by the amendatory provisions of this subsection shall be refunded. Each
25 claim for a sales tax refund shall be verified and submitted to the director
26 of taxation upon forms furnished by the director and shall be accompanied
27 by any additional documentation required by the director. The director
28 shall review each claim and shall refund that amount of sales tax paid as
29 determined under the provisions of this subsection. All refunds shall be
30 paid from the sales tax refund fund upon warrants of the director of
31 accounts and reports pursuant to vouchers approved by the director or
32 the director's designee;

33 (jjj) all sales of dietary supplements dispensed pursuant to a prescrip-
34 tion order by a licensed practitioner or a mid-level practitioner as defined
35 by K.S.A. 65-1626, and amendments thereto. As used in this subsection,
36 "dietary supplement" means any product, other than tobacco, intended
37 to supplement the diet that: (1) Contains one or more of the following
38 dietary ingredients: A vitamin, a mineral, an herb or other botanical, an
39 amino acid, a dietary substance for use by humans to supplement the diet
40 by increasing the total dietary intake or a concentrate, metabolite, con-
41 stituent, extract or combination of any such ingredient; (2) is intended
42 for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or
43 if not intended for ingestion, in such a form, is not represented as con-

1 ventional food and is not represented for use as a sole item of a meal or
2 of the diet; and (3) is required to be labeled as a dietary supplement,
3 identifiable by the supplemental facts box found on the label and as re-
4 quired pursuant to 21 C.F.R. § 101.36;

5 (lll) all sales of tangible personal property and services purchased by
6 special olympics Kansas, inc. for the purpose of providing year-round
7 sports training and athletic competition in a variety of olympic-type sports
8 for individuals with intellectual disabilities by giving them continuing op-
9 portunities to develop physical fitness, demonstrate courage, experience
10 joy and participate in a sharing of gifts, skills and friendship with their
11 families, other special olympics athletes and the community, and activities
12 provided or sponsored by such organization, and all sales of tangible per-
13 sonal property by or on behalf of any such organization;

14 (mmm) all sales of tangible personal property purchased by or on
15 behalf of the Marillac Center, Inc., which is exempt from federal income
16 taxation pursuant to section 501(c)(3) of the federal internal revenue
17 code, for the purpose of providing psycho-social-biological and special
18 education services to children, and all sales of any such property by or on
19 behalf of such organization for such purpose;

20 (nnn) all sales of tangible personal property and services purchased
21 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Char-
22 itable Fund for the purpose of constructing a boundless playground which
23 is an integrated, barrier free and developmentally advantageous play en-
24 vironment for children of all abilities and disabilities;

25 (ooo) all sales of tangible personal property by or on behalf of a public
26 library serving the general public and supported in whole or in part with
27 tax money or a not-for-profit organization whose purpose is to raise funds
28 for or provide services or other benefits to any such public library;

29 (ppp) all sales of tangible personal property and services purchased
30 by or on behalf of a homeless shelter which is exempt from federal income
31 taxation pursuant to section 501(c)(3) of the federal income tax code of
32 1986, and used by any such homeless shelter to provide emergency and
33 transitional housing for individuals and families experiencing homeles-
34 ness, and all sales of any such property by or on behalf of any such home-
35 less shelter for any such purpose;

36 (qqq) all sales of tangible personal property and services purchased
37 by TLC for children and families, inc., hereinafter referred to as TLC,
38 which is exempt from federal income taxation pursuant to section
39 501(c)(3) of the federal internal revenue code of 1986, and which such
40 property and services are used for the purpose of providing emergency
41 shelter and treatment for abused and neglected children as well as meet-
42 ing additional critical needs for children, juveniles and family, and all sales
43 of any such property by or on behalf of TLC for any such purpose; and

1 all sales of tangible personal property or services purchased by a contrac-
2 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-
3 nishing or remodeling facilities for the operation of services for TLC for
4 any such purpose which would be exempt from taxation under the pro-
5 visions of this section if purchased directly by TLC. Nothing in this sub-
6 section shall be deemed to exempt the purchase of any construction ma-
7 chinery, equipment or tools used in the constructing, maintaining,
8 repairing, enlarging, furnishing or remodeling such facilities for TLC.
9 When TLC contracts for the purpose of constructing, maintaining, re-
10 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
11 from the state and furnish to the contractor an exemption certificate for
12 the project involved, and the contractor may purchase materials for in-
13 corporation in such project. The contractor shall furnish the number of
14 such certificate to all suppliers from whom such purchases are made, and
15 such suppliers shall execute invoices covering the same bearing the num-
16 ber of such certificate. Upon completion of the project the contractor
17 shall furnish to TLC a sworn statement, on a form to be provided by the
18 director of taxation, that all purchases so made were entitled to exemption
19 under this subsection. All invoices shall be held by the contractor for a
20 period of five years and shall be subject to audit by the director of taxation.
21 If any materials purchased under such a certificate are found not to have
22 been incorporated in the building or other project or not to have been
23 returned for credit or the sales or compensating tax otherwise imposed
24 upon such materials which will not be so incorporated in the building or
25 other project reported and paid by such contractor to the director of
26 taxation not later than the 20th day of the month following the close of
27 the month in which it shall be determined that such materials will not be
28 used for the purpose for which such certificate was issued, TLC shall be
29 liable for tax on all materials purchased for the project, and upon payment
30 thereof it may recover the same from the contractor together with rea-
31 sonable attorney fees. Any contractor or any agent, employee or subcon-
32 tractor thereof, who shall use or otherwise dispose of any materials pur-
33 chased under such a certificate for any purpose other than that for which
34 such a certificate is issued without the payment of the sales or compen-
35 sating tax otherwise imposed upon such materials, shall be guilty of a
36 misdemeanor and, upon conviction therefor, shall be subject to the pen-
37 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
38 thereto;

39 (rrr) all sales of tangible personal property and services purchased by
40 any county law library maintained pursuant to law and sales of tangible
41 personal property and services purchased by an organization which would
42 have been exempt from taxation under the provisions of this subsection
43 if purchased directly by the county law library for the purpose of providing

1 legal resources to attorneys, judges, students and the general public, and
2 all sales of any such property by or on behalf of any such county law
3 library;

4 (sss) all sales of tangible personal property and services purchased by
5 catholic charities or youthville, hereinafter referred to as charitable family
6 providers, which is exempt from federal income taxation pursuant to sec-
7 tion 501(c)(3) of the federal internal revenue code of 1986, and which
8 such property and services are used for the purpose of providing emer-
9 gency shelter and treatment for abused and neglected children as well as
10 meeting additional critical needs for children, juveniles and family, and
11 all sales of any such property by or on behalf of charitable family providers
12 for any such purpose; and all sales of tangible personal property or serv-
13 ices purchased by a contractor for the purpose of constructing, maintain-
14 ing, repairing, enlarging, furnishing or remodeling facilities for the op-
15 eration of services for charitable family providers for any such purpose
16 which would be exempt from taxation under the provisions of this section
17 if purchased directly by charitable family providers. Nothing in this sub-
18 section shall be deemed to exempt the purchase of any construction ma-
19 chinery, equipment or tools used in the constructing, maintaining, re-
20 pairing, enlarging, furnishing or remodeling such facilities for charitable
21 family providers. When charitable family providers contracts for the pur-
22 pose of constructing, maintaining, repairing, enlarging, furnishing or re-
23 modeling such facilities, it shall obtain from the state and furnish to the
24 contractor an exemption certificate for the project involved, and the con-
25 tractor may purchase materials for incorporation in such project. The
26 contractor shall furnish the number of such certificate to all suppliers
27 from whom such purchases are made, and such suppliers shall execute
28 invoices covering the same bearing the number of such certificate. Upon
29 completion of the project the contractor shall furnish to charitable family
30 providers a sworn statement, on a form to be provided by the director of
31 taxation, that all purchases so made were entitled to exemption under
32 this subsection. All invoices shall be held by the contractor for a period
33 of five years and shall be subject to audit by the director of taxation. If
34 any materials purchased under such a certificate are found not to have
35 been incorporated in the building or other project or not to have been
36 returned for credit or the sales or compensating tax otherwise imposed
37 upon such materials which will not be so incorporated in the building or
38 other project reported and paid by such contractor to the director of
39 taxation not later than the 20th day of the month following the close of
40 the month in which it shall be determined that such materials will not be
41 used for the purpose for which such certificate was issued, charitable
42 family providers shall be liable for tax on all materials purchased for the
43 project, and upon payment thereof it may recover the same from the

1 contractor together with reasonable attorney fees. Any contractor or any
2 agent, employee or subcontractor thereof, who shall use or otherwise
3 dispose of any materials purchased under such a certificate for any pur-
4 pose other than that for which such a certificate is issued without the
5 payment of the sales or compensating tax otherwise imposed upon such
6 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
7 shall be subject to the penalties provided for in subsection (g) of K.S.A.
8 79-3615, and amendments thereto;

9 (ttt) all sales of tangible personal property or services purchased by
10 a contractor for a project for the purpose of restoring, constructing, equip-
11 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
12 modeling a home or facility owned by a nonprofit museum which has
13 been granted an exemption pursuant to subsection (qq), which such home
14 or facility is located in a city which has been designated as a qualified
15 hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and
16 amendments thereto, and which such project is related to the purposes
17 of K.S.A. 75-5071 et seq., and amendments thereto, and which would be
18 exempt from taxation under the provisions of this section if purchased
19 directly by such nonprofit museum. Nothing in this subsection shall be
20 deemed to exempt the purchase of any construction machinery, equip-
21 ment or tools used in the restoring, constructing, equipping, reconstruct-
22 ing, maintaining, repairing, enlarging, furnishing or remodeling a home
23 or facility for any such nonprofit museum. When any such nonprofit mu-
24 seum shall contract for the purpose of restoring, constructing, equipping,
25 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
26 ing a home or facility, it shall obtain from the state and furnish to the
27 contractor an exemption certificate for the project involved, and the con-
28 tractor may purchase materials for incorporation in such project. The
29 contractor shall furnish the number of such certificates to all suppliers
30 from whom such purchases are made, and such suppliers shall execute
31 invoices covering the same bearing the number of such certificate. Upon
32 completion of the project, the contractor shall furnish to such nonprofit
33 museum a sworn statement on a form to be provided by the director of
34 taxation that all purchases so made were entitled to exemption under this
35 subsection. All invoices shall be held by the contractor for a period of five
36 years and shall be subject to audit by the director of taxation. If any
37 materials purchased under such a certificate are found not to have been
38 incorporated in the building or other project or not to have been returned
39 for credit or the sales or compensating tax otherwise imposed upon such
40 materials which will not be so incorporated in a home or facility or other
41 project reported and paid by such contractor to the director of taxation
42 not later than the 20th day of the month following the close of the month
43 in which it shall be determined that such materials will not be used for

1 the purpose for which such certificate was issued, such nonprofit museum
2 shall be liable for tax on all materials purchased for the project, and upon
3 payment thereof it may recover the same from the contractor together
4 with reasonable attorney fees. Any contractor or any agent, employee or
5 subcontractor thereof, who shall use or otherwise dispose of any materials
6 purchased under such a certificate for any purpose other than that for
7 which such a certificate is issued without the payment of the sales or
8 compensating tax otherwise imposed upon such materials, shall be guilty
9 of a misdemeanor and, upon conviction therefor, shall be subject to the
10 penalties provided for in subsection (g) of K.S.A. 79-3615, and amend-
11 ments thereto;

12 (uuu) all sales of tangible personal property and services purchased
13 by Kansas children's service league, hereinafter referred to as KCSL,
14 which is exempt from federal income taxation pursuant to section
15 501(c)(3) of the federal internal revenue code of 1986, and which such
16 property and services are used for the purpose of providing for the pre-
17 vention and treatment of child abuse and maltreatment as well as meeting
18 additional critical needs for children, juveniles and family, and all sales of
19 any such property by or on behalf of KCSL for any such purpose; and all
20 sales of tangible personal property or services purchased by a contractor
21 for the purpose of constructing, maintaining, repairing, enlarging, fur-
22 nishing or remodeling facilities for the operation of services for KCSL
23 for any such purpose which would be exempt from taxation under the
24 provisions of this section if purchased directly by KCSL. Nothing in this
25 subsection shall be deemed to exempt the purchase of any construction
26 machinery, equipment or tools used in the constructing, maintaining, re-
27 pairing, enlarging, furnishing or remodeling such facilities for KCSL.
28 When KCSL contracts for the purpose of constructing, maintaining, re-
29 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
30 from the state and furnish to the contractor an exemption certificate for
31 the project involved, and the contractor may purchase materials for in-
32 corporation in such project. The contractor shall furnish the number of
33 such certificate to all suppliers from whom such purchases are made, and
34 such suppliers shall execute invoices covering the same bearing the num-
35 ber of such certificate. Upon completion of the project the contractor
36 shall furnish to KCSL a sworn statement, on a form to be provided by
37 the director of taxation, that all purchases so made were entitled to ex-
38 emption under this subsection. All invoices shall be held by the contractor
39 for a period of five years and shall be subject to audit by the director of
40 taxation. If any materials purchased under such a certificate are found
41 not to have been incorporated in the building or other project or not to
42 have been returned for credit or the sales or compensating tax otherwise
43 imposed upon such materials which will not be so incorporated in the

1 building or other project reported and paid by such contractor to the
2 director of taxation not later than the 20th day of the month following
3 the close of the month in which it shall be determined that such materials
4 will not be used for the purpose for which such certificate was issued,
5 KCSL shall be liable for tax on all materials purchased for the project,
6 and upon payment thereof it may recover the same from the contractor
7 together with reasonable attorney fees. Any contractor or any agent, em-
8 ployee or subcontractor thereof, who shall use or otherwise dispose of
9 any materials purchased under such a certificate for any purpose other
10 than that for which such a certificate is issued without the payment of
11 the sales or compensating tax otherwise imposed upon such materials,
12 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
13 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
14 and amendments thereto;

15 (vvv) all sales of tangible personal property or services, including the
16 renting and leasing of tangible personal property or services, purchased
17 by Jazz in the Woods, Inc., a Kansas corporation which is exempt from
18 federal income taxation pursuant to section 501 (c)(3) of the federal in-
19 ternal revenue code, for the purpose of providing Jazz in the Woods, an
20 event benefiting children-in-need and other nonprofit charities assisting
21 such children, and all sales of any such property by or on behalf of such
22 organization for such purpose;

23 (www) all sales of tangible personal property purchased by or on be-
24 half of the Frontenac Education Foundation, which is exempt from fed-
25 eral income taxation pursuant to section 501 (c)(3) of the federal internal
26 revenue code, for the purpose of providing education support for stu-
27 dents, and all sales of any such property by or on behalf of such organi-
28 zation for such purpose;

29 (xxx) all sales of personal property and services purchased by the
30 booth theatre foundation, inc., an organization which is exempt from fed-
31 eral income taxation pursuant to section 501(c)(3) of the federal internal
32 revenue code of 1986, and which such personal property and services are
33 used by any such organization in the constructing, equipping, recon-
34 structing, maintaining, repairing, enlarging, furnishing or remodeling of
35 the booth theatre, and all sales of tangible personal property or services
36 purchased by a contractor for the purpose of constructing, equipping,
37 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
38 ing the booth theatre for such organization, which would be exempt from
39 taxation under the provisions of this section if purchased directly by such
40 organization. Nothing in this subsection shall be deemed to exempt the
41 purchase of any construction machinery, equipment or tools used in the
42 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
43 ing, furnishing or remodeling facilities for any such organization. When

1 any such organization shall contract for the purpose of constructing,
2 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
3 or remodeling facilities, it shall obtain from the state and furnish to the
4 contractor an exemption certificate for the project involved, and the con-
5 tractor may purchase materials for incorporation in such project. The
6 contractor shall furnish the number of such certificate to all suppliers
7 from whom such purchases are made, and such suppliers shall execute
8 invoices covering the same bearing the number of such certificate. Upon
9 completion of the project the contractor shall furnish to such organization
10 concerned a sworn statement, on a form to be provided by the director
11 of taxation, that all purchases so made were entitled to exemption under
12 this subsection. All invoices shall be held by the contractor for a period
13 of five years and shall be subject to audit by the director of taxation. If
14 any materials purchased under such a certificate are found not to have
15 been incorporated in such facilities or not to have been returned for credit
16 or the sales or compensating tax otherwise imposed upon such materials
17 which will not be so incorporated in such facilities reported and paid by
18 such contractor to the director of taxation not later than the 20th day of
19 the month following the close of the month in which it shall be deter-
20 mined that such materials will not be used for the purpose for which such
21 certificate was issued, such organization concerned shall be liable for tax
22 on all materials purchased for the project, and upon payment thereof it
23 may recover the same from the contractor together with reasonable at-
24 torney fees. Any contractor or any agent, employee or subcontractor
25 thereof, who shall use or otherwise dispose of any materials purchased
26 under such a certificate for any purpose other than that for which such a
27 certificate is issued without the payment of the sales or compensating tax
28 otherwise imposed upon such materials, shall be guilty of a misdemeanor
29 and, upon conviction therefor, shall be subject to the penalties provided
30 for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales
31 tax paid on and after January 1, 2007, but prior to the effective date of
32 this act upon the gross receipts received from any sale which would have
33 been exempted by the provisions of this subsection had such sale occurred
34 after the effective date of this act shall be refunded. Each claim for a
35 sales tax refund shall be verified and submitted to the director of taxation
36 upon forms furnished by the director and shall be accompanied by any
37 additional documentation required by the director. The director shall
38 review each claim and shall refund that amount of sales tax paid as de-
39 termined under the provisions of this subsection. All refunds shall be paid
40 from the sales tax refund fund upon warrants of the director of accounts
41 and reports pursuant to vouchers approved by the director or the direc-
42 tor's designee;

43 (yyy) all sales of tangible personal property and services purchased

1 by TLC charities foundation, inc., hereinafter referred to as TLC chari-
2 ties, which is exempt from federal income taxation pursuant to section
3 501(c)(3) of the federal internal revenue code of 1986, and which such
4 property and services are used for the purpose of encouraging private
5 philanthropy to further the vision, values, and goals of TLC for children
6 and families, inc.; and all sales of such property and services by or on
7 behalf of TLC charities for any such purpose and all sales of tangible
8 personal property or services purchased by a contractor for the purpose
9 of constructing, maintaining, repairing, enlarging, furnishing or remodel-
10 eling facilities for the operation of services for TLC charities for any such
11 purpose which would be exempt from taxation under the provisions of
12 this section if purchased directly by TLC charities. Nothing in this sub-
13 section shall be deemed to exempt the purchase of any construction ma-
14 chinery, equipment or tools used in the constructing, maintaining, re-
15 pairing, enlarging, furnishing or remodeling such facilities for TLC
16 charities. When TLC charities contracts for the purpose of constructing,
17 maintaining, repairing, enlarging, furnishing or remodeling such facilities,
18 it shall obtain from the state and furnish to the contractor an exemption
19 certificate for the project involved, and the contractor may purchase ma-
20 terials for incorporation in such project. The contractor shall furnish the
21 number of such certificate to all suppliers from whom such purchases are
22 made, and such suppliers shall execute invoices covering the same bearing
23 the number of such certificate. Upon completion of the project the con-
24 tractor shall furnish to TLC charities a sworn statement, on a form to be
25 provided by the director of taxation, that all purchases so made were
26 entitled to exemption under this subsection. All invoices shall be held by
27 the contractor for a period of five years and shall be subject to audit by
28 the director of taxation. If any materials purchased under such a certifi-
29 cate are found not to have been incorporated in the building or other
30 project or not to have been returned for credit or the sales or compen-
31 sating tax otherwise imposed upon such materials which will not be in-
32 corporated into the building or other project reported and paid by such
33 contractor to the director of taxation not later than the 20th day of the
34 month following the close of the month in which it shall be determined
35 that such materials will not be used for the purpose for which such cer-
36 tificate was issued, TLC charities shall be liable for tax on all materials
37 purchased for the project, and upon payment thereof it may recover the
38 same from the contractor together with reasonable attorney fees. Any
39 contractor or any agent, employee or subcontractor thereof, who shall use
40 or otherwise dispose of any materials purchased under such a certificate
41 for any purpose other than that for which such a certificate is issued
42 without the payment of the sales or compensating tax otherwise imposed
43 upon such materials, shall be guilty of a misdemeanor and, upon convic-

1 tion therefor, shall be subject to the penalties provided for in subsection
2 (g) of K.S.A. 79-3615, and amendments thereto;

3 (zzz) all sales of tangible personal property purchased by the rotary
4 club of shawnee foundation which is exempt from federal income taxation
5 pursuant to section 501 (c)(3) of the federal internal revenue code of
6 1986, as amended, used for the purpose of providing contributions to
7 community service organizations and scholarships;

8 (aaaa) all sales of personal property and services purchased by or on
9 behalf of victory in the valley, inc., which is exempt from federal income
10 taxation pursuant to section 501 (c)(3) of the federal internal revenue
11 code, for the purpose of providing a cancer support group and services
12 for persons with cancer, and all sales of any such property by or on behalf
13 of any such organization for any such purpose;

14 (bbbb) all sales of entry or participation fees, charges or tickets by
15 Guadalupe health foundation, which is exempt from federal income tax-
16 ation pursuant to section 501(c)(3) of the federal internal revenue code,
17 for such organization's annual fundraising event which purpose is to pro-
18 vide health care services for uninsured workers; and

19 (cccc) all sales of tangible personal property or services purchased by
20 or on behalf of wayside waifs, inc., which is exempt from federal income
21 taxation pursuant to section 501(c)(3) of the federal internal revenue
22 code, for the purpose of providing such organization's annual fundraiser,
23 an event whose purpose is to support the care of homeless and abandoned
24 animals, animal adoption efforts, education programs for children and
25 efforts to reduce animal over-population and animal welfare services, and
26 all sales of any such property, including entry or participation fees or
27 charges, by or on behalf of such organization for such purpose.

28 Sec. 60. K.S.A. 79-4101 is hereby amended to read as follows: 79-
29 4101. (a) For the purpose of providing revenue which may be used by
30 the state, counties and cities in the enforcement of the provisions of this
31 act, from and after the effective date of this act, for the privilege of en-
32 gaging in the business of selling alcoholic liquor by *liquor* retailers or farm
33 wineries to consumers in this state ~~or~~, *selling alcoholic liquor or cereal*
34 *malt beverage by a liquor retailer temporary permit holders, selling cereal*
35 *malt beverage to consumers in this state by liquor retailers or cereal malt*
36 *beverage retailers licensed to sell cereal malt beverage in the original and*
37 *unopened containers, selling alcoholic liquor or cereal malt beverage by*
38 *distributors to clubs, drinking establishments, temporary permit holders*
39 *or caterers in this state or selling cereal malt beverage to cereal malt*
40 *beverage retailers licensed to sell cereal malt beverage for consumption*
41 *on the licensed premises, there is hereby levied and there shall be col-*
42 *lected and paid a tax at the rate of 8% upon the gross receipts received*
43 *from: (1) The sale of alcoholic liquor by liquor retailers, microbreweries*

1 or farm wineries to consumers within this state; ~~and~~ (2) *the sale of cereal*
2 *malt beverage by liquor retailers to consumers in this state;* (3) *the sale*
3 *of alcoholic liquor to temporary permit holders by liquor retailers;* (4) *the*
4 *sale of cereal malt beverage to consumers in this state by cereal malt*
5 *beverage retailers licensed to sell cereal malt beverage in the original and*
6 *unopened containers;* (5) *the sale of cereal malt beverage by distributors*
7 *to cereal malt beverage retailers license to sell cereal malt beverage for*
8 *consumption on the licensed premises; and* (6) *the sale of alcoholic liquor*
9 *or cereal malt beverage by distributors to clubs, drinking establishments,*
10 *temporary permit holders or caterers in this state.*

11 (b) The tax imposed by this section shall be in addition to the license
12 fee imposed on distributors, *liquor* retailers, microbreweries and farm
13 wineries by K.S.A. 41-310, and amendments thereto, *and in addition to*
14 *the license fee imposed on cereal malt beverage retailers by section 3, and*
15 *amendments thereto.*

16 Sec. 61. K.S.A. 79-4102 is hereby amended to read as follows: 79-
17 4102. The tax levied under K.S.A. 79-4101, and amendments thereto,
18 shall be paid by the consumer or user to the *liquor retailer, cereal malt*
19 *beverage* retailer, microbrewery or farm winery or by the club, drinking
20 establishment or caterer to the distributor. It shall be the duty of each
21 *liquor retailer, cereal malt beverage* retailer, microbrewery, farm winery
22 or distributor in this state to collect from the purchaser the full amount
23 of the tax imposed by this act, or an amount equal as nearly as possible
24 or practicable, to the average equivalent thereof.

25 Sec. 62. K.S.A. 79-4103 is hereby amended to read as follows: 79-
26 4103. On or before the 25th day of each calendar month, every person
27 engaged in the business of selling alcoholic liquor ~~at retail~~ or *cereal malt*
28 *beverage at retail pursuant to the Kansas liquor control act or the club*
29 *and drinking establishment act, every liquor retailer selling alcoholic liq-*
30 *uor or cereal malt beverage to temporary permit holders, every micro-*
31 *brewery selling beer to consumers, every farm winery selling wine to*
32 *consumers in this state and, every distributor selling alcoholic liquor or*
33 *cereal malt beverage to clubs, drinking establishments, temporary permit*
34 *holders or caterers in this state, every distributor selling cereal malt bev-*
35 *erage to cereal malt beverage retailers licensed to sell cereal malt beverage*
36 *for consumption on the licensed premises and every cereal malt beverage*
37 *retailer licensed to sell cereal malt beverage in the original and unopened*
38 *containers selling to consumers in this state during the preceding calendar*
39 *month shall make a return to the director of taxation upon forms pre-*
40 *scribed and furnished by the director, stating: (a) The name and address*
41 *of the seller; (b) the total amount of gross sales subject to the tax imposed*
42 *by K.S.A. 79-4101, and amendments thereto, during the preceding cal-*
43 *endar month; and (c) any other pertinent information the director re-*

1 quires. The person making the return shall, at the time of making the
2 return, pay to the director of taxation the amount of tax imposed by K.S.A.
3 79-4101, and amendments thereto. The director of taxation may extend
4 the time for making returns and paying the tax for any period not to
5 exceed 60 days, under rules and regulations adopted by the secretary of
6 revenue.

7 Sec. 63. K.S.A. 79-4104 is hereby amended to read as follows: 79-
8 4104. Whenever the director of alcoholic beverage control issues a *liquor*
9 *retailer's, cereal malt beverage* retailer's, distributor's, microbrewery or
10 farm winery license, the director of alcoholic beverage control shall
11 promptly notify the director of taxation of its issuance. The notice shall
12 include the name of the licensee and, in the case of a *liquor retailer,*
13 *cereal malt beverage* retailer, microbrewery or farm winery, the address
14 of the licensed premises. Whenever the director of alcoholic beverage
15 control revokes or suspends any *liquor retailer's, cereal malt beverage*
16 retailer's, distributor's, microbrewery or farm winery license or whenever
17 any *liquor retailer's, cereal malt beverage* retailer's, distributor's, micro-
18 brewery or farm winery license expires, the director of alcoholic beverage
19 control shall likewise notify the director of taxation.

20 Sec. 64. K.S.A. 2008 Supp. 79-4108 is hereby amended to read as
21 follows: 79-4108. All revenue collected or received by the director of
22 taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and amend-
23 ments thereto, shall be remitted to the state treasurer in accordance with
24 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
25 of each such remittance, the state treasurer shall deposit the entire
26 amount in the state treasury to the credit of the state general fund, *except*
27 *that 25% of the revenue collected and received from cereal malt beverage*
28 *retailers shall be credited to the local cereal malt beverage enforcement*
29 *fund, which is hereby created in the state treasury. Moneys credited to*
30 *the local cereal malt beverage enforcement fund shall be distributed quar-*
31 *terly on January 15, April 15, July 15 and October 15 of each year to the*
32 *various cities and counties in the proportion that taxpayers under the*
33 *Kansas retailers' sales tax act in such cities and counties collected and*
34 *remitted to the director of taxation in the preceding calendar quarter*
35 *revenues under the Kansas retailers' sales tax act. Moneys received by*
36 *cities and counties pursuant to this section shall be used solely for the*
37 *purpose of enforcing the provisions of the Kansas cereal malt beverage*
38 *act. All expenditures for distributions from the local cereal malt beverage*
39 *enforcement fund shall be made in accordance with appropriations acts*
40 *upon warrants of the director of accounts and reports issued pursuant to*
41 *vouchers approved by the director of taxation.* The state treasurer shall
42 transfer any moneys remaining in the county and city alcoholic liquor
43 control enforcement fund on the effective date of this act to the state

1 general fund.

2 Sec. 65. K.S.A. 79-41a01 is hereby amended to read as follows: 79-
3 41a01. As used in K.S.A. 79-41a01 through 79-41a09, and amendments
4 thereto:

5 (a) "Alcoholic liquor" means alcoholic liquor, as defined by K.S.A.
6 41-102, and amendments thereto, and cereal malt beverage, as defined
7 by K.S.A. 41-2701, and amendments thereto.

8 (b) "Caterer," "club," "drinking establishment" and "temporary per-
9 mit" have the meanings provided by K.S.A. 41-2601, and amendments
10 thereto.

11 (c) "*Cereal malt beverage retailer*" means a cereal malt beverage re-
12 tailer, as defined in K.S.A. 41-2701, and amendments thereto, which is
13 licensed under the Kansas cereal malt beverage act to sell cereal malt
14 beverage for consumption on the licensed premises.

15 (d) "Gross receipts derived from the sale of alcoholic liquor" means
16 the amount charged the consumer for a drink containing alcoholic liquor
17 or cereal malt beverage, including any portion of that amount attributable
18 to the cost of any ingredient mixed with or added to the alcoholic liquor
19 contained in such drink.

20 Sec. 66. K.S.A. 79-41a02 is hereby amended to read as follows: 79-
21 41a02. (a) There is hereby imposed, for the privilege of selling alcoholic
22 liquor or cereal malt beverage, a tax at the rate of 10% upon the gross
23 receipts derived from the sale of alcoholic liquor or cereal malt beverage
24 by any club, caterer, drinking establishment or temporary permit holder
25 or by any cereal malt beverage retailer licensed to sell cereal malt beverage
26 for consumption on the licensed premises.

27 (b) The tax imposed by this section shall be paid by the consumer to
28 the club, caterer, drinking establishment or temporary permit holder or
29 to any cereal malt beverage retailer licensed to sell cereal malt beverage
30 for consumption on the licensed premises and it shall be the duty of each
31 and every club, caterer, drinking establishment ~~or~~, temporary permit
32 holder or cereal malt beverage retailer subject to this section to collect
33 from the consumer the full amount of such tax, or an amount equal as
34 nearly as possible or practicable to the average equivalent thereto. Each
35 club, caterer, drinking establishment ~~or~~, temporary permit holder or ce-
36 real malt beverage retailer collecting the tax imposed hereunder shall be
37 responsible for paying over the same to the state department of revenue
38 in the manner prescribed by K.S.A. 79-41a03, and amendments thereto,
39 and the state department of revenue shall administer and enforce the
40 collection of such tax.

41 Sec. 67. K.S.A. 2008 Supp. 79-41a03 is hereby amended to read as
42 follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-
43 41a02, and amendments thereto, shall become due and payable by the

1 club, caterer, drinking establishment ~~or~~, temporary permit holder *or* ce-
2 *real malt beverage retailer licensed to sell cereal malt beverage for con-*
3 *sumption on the licensed premises* monthly, or on or before the 25th day
4 of the month immediately succeeding the month in which it is collected,
5 but any *such* club, caterer, drinking establishment ~~or~~, temporary permit
6 holder *or cereal malt beverage retailer* filing an annual or quarterly return
7 under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607,
8 and amendments thereto, shall, upon such conditions as the secretary of
9 revenue may prescribe, pay the tax required by this act on the same basis
10 and at the same time the club, caterer, drinking establishment ~~or~~, tem-
11 porary permit holder *or cereal malt beverage retailer licensed to sell cereal*
12 *malt beverage for consumption on the licensed premises* pays such retail-
13 ers' sales tax. Each *such* club, caterer, drinking establishment ~~or~~, tem-
14 porary permit holder *or cereal malt beverage retailer* shall make a true
15 report to the department of revenue, on a form prescribed by the sec-
16 retary of revenue, providing such information as may be necessary to
17 determine the amounts to which any such tax shall apply for all gross
18 receipts derived from the sale of alcoholic liquor by the club, caterer,
19 drinking establishment ~~or~~, temporary permit holder *or cereal malt bev-*
20 *erage retailer* for the applicable month or months, which report shall be
21 accompanied by the tax disclosed thereby. Records of gross receipts de-
22 rived from the sale of alcoholic liquor shall be kept separate and apart
23 from the records of other retail sales made by a club, caterer, drinking
24 establishment ~~or~~, temporary permit holder *or cereal malt beverage re-*
25 *tailer* in order to facilitate the examination of books and records as pro-
26 vided herein.

27 (b) The secretary of revenue or the secretary's authorized represen-
28 tative shall have the right at all reasonable times during business hours
29 to make such examination and inspection of the books and records of a
30 club, caterer, drinking establishment ~~or~~, temporary permit holder *or ce-*
31 *real malt beverage retailer* as may be necessary to determine the accuracy
32 of such reports required hereunder.

33 (c) The secretary of revenue is hereby authorized to administer and
34 collect the tax imposed hereunder and to adopt such rules and regulations
35 as may be necessary for the efficient and effective administration and
36 enforcement of the collection thereof. Whenever any club, caterer, drink-
37 ing establishment ~~or~~, temporary permit holder *or cereal malt beverage*
38 *retailer* liable to pay the tax imposed hereunder refuses or neglects to pay
39 the same, the amount, including any penalty, shall be collected in the
40 manner prescribed for the collection of the retailers' sales tax by K.S.A.
41 79-3617, and amendments thereto.

42 (d) The secretary of revenue shall remit all revenue collected under
43 the provisions of this act to the state treasurer in accordance with the

1 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
2 each such remittance, the state treasurer shall deposit the entire amount
3 in the state treasury. Subject to the maintenance requirements of the
4 local alcoholic liquor refund fund created under K.S.A. 79-41a09, and
5 amendments thereto, 25% of the remittance shall be credited to the state
6 general fund, 5% shall be credited to the community alcoholism and in-
7 toxication programs fund created by K.S.A. 41-1126, and amendments
8 thereto, and the balance shall be credited to the local alcoholic liquor
9 fund created by K.S.A. 79-41a04, and amendments thereto.

10 (e) Whenever, in the judgment of the secretary of revenue, it is nec-
11 essary, in order to secure the collection of any tax, penalties or interest
12 due, or to become due, under the provisions of this act, the secretary may
13 require any person subject to such tax to file a bond with the director of
14 taxation under conditions established by and in such form and amount as
15 prescribed by rules and regulations adopted by the secretary.

16 (f) The amount of tax imposed by this act shall be assessed within
17 three years after the return is filed, and no proceedings in court for the
18 collection of such taxes shall be begun after the expiration of such period
19 except in the cases of fraud. In the case of a false or fraudulent return
20 with intent to evade tax, the tax may be assessed or a proceeding in court
21 for collection of such tax may be begun at any time, within two years from
22 the discovery of such fraud. No refund or credit shall be allowed by the
23 director after three years from the date of payment of the tax as provided
24 in this act unless before the expiration of such period a claim therefor is
25 filed by the taxpayer, and no suit or action to recover on any claim for
26 refund shall be commenced until after the expiration of six months from
27 the date of filing a claim therefor with the director. Before the expiration
28 of time prescribed in this section for the assessment of additional tax or
29 the filing of a claim for refund, the director is hereby authorized to enter
30 into an agreement in writing with the taxpayer consenting to the extension
31 of the periods of limitations for the assessment of tax or for the filing of
32 a claim for refund, at any time prior to the expiration of the periods of
33 limitations. The period so agreed upon may be extended by subsequent
34 agreements in writing made before the expiration of the period previously
35 agreed upon.

36 Sec. 68. K.S.A. 79-41a04 is hereby amended to read as follows: 79-
37 41a04. (a) There is hereby created, in the state treasury, the local alcoholic
38 liquor fund. Moneys credited to such fund pursuant to this act or any
39 other law shall be expended only for the purpose and in the manner
40 provided by this act.

41 (b) All moneys credited to the local alcoholic liquor fund shall be
42 allocated to the several cities and counties of the state as follows:

43 (1) Each city that has a population of more than 6,000 shall receive

1 70% of the amount which is collected pursuant to this act from clubs ~~or~~,
2 drinking establishments *or cereal malt beverage retailers* located in such
3 city, from caterers whose principal places of business are so located or
4 from temporary permit holders whose permitted events are so located
5 and which is paid into the state treasury during the period for which the
6 allocation is made.

7 (2) Each city that has a population of 6,000 or less shall receive $46\frac{2}{3}\%$
8 of the amount which is collected pursuant to this act from clubs ~~or~~, drink-
9 ing establishments *or cereal malt beverage retailers* located in such city,
10 from caterers whose principal places of business are so located or from
11 temporary permit holders whose permitted events are so located and
12 which is paid into the state treasury during the period for which the
13 allocation is made.

14 (3) Each county shall receive: (A) 70% of the amount which is col-
15 lected pursuant to this act from clubs ~~or~~, drinking establishments *or cereal*
16 *malt beverage retailers* located in such county and outside the corporate
17 limits of any city, from caterers whose principal places of business are so
18 located or from temporary permit holders whose permitted events are so
19 located and which is paid into the state treasury during the period for
20 which the allocation is made; and (B) $23\frac{2}{3}\%$ of the amount which is
21 collected pursuant to this act from clubs ~~or~~, drinking establishments *or*
22 *cereal malt beverage retailers* located in the county and within a city that
23 has a population of 6,000 or less, from caterers whose principal places of
24 business are so located or from temporary permit holders whose permit-
25 ted events are so located and which is paid into the state treasury during
26 the period for which the allocation is made.

27 (c) The state treasurer shall make distributions from the local alco-
28 holic liquor fund in accordance with the allocation formula prescribed by
29 subsection (b) on March 15, June 15, September 15 and December 15
30 of each year. The director of accounts and reports shall draw warrants on
31 the state treasurer in favor of the several county treasurers and city treas-
32 urers on the dates and in the amounts determined under this section.
33 Such distributions shall be paid directly to the several county treasurers
34 and city treasurers.

35 (d) Except as otherwise provided by this subsection, each city trea-
36 surer of a city that has a population of more than 6,000, upon receipt of
37 any moneys distributed under this section, shall deposit the full amount
38 in the city treasury and shall credit $\frac{1}{3}$ of the deposit to the general fund
39 of the city, $\frac{1}{3}$ to a special parks and recreation fund in the city treasury
40 and $\frac{1}{3}$ to a special alcohol and drug programs fund in the city treasury.
41 Each city treasurer of a city that has a population of 6,000 or less, upon
42 receipt of any moneys distributed under this section, shall deposit the full
43 amount in the city treasury and shall credit $\frac{1}{2}$ of the deposit to the general

1 fund of the city and $\frac{1}{2}$ to a special parks and recreation fund in the city
2 treasury. Moneys in such special funds shall be under the direction and
3 control of the governing body of the city. Moneys in the special parks and
4 recreation fund may be expended only for the purchase, establishment,
5 maintenance or expansion of park and recreational services, programs and
6 facilities. One-half of the moneys distributed under this section to cities
7 located in Butler county shall be deposited in a special community sup-
8 port program and parks and recreation fund in the city treasury. Moneys
9 in the special community support program and parks and recreation fund
10 may be expended only for (1) the establishment and operation of a do-
11 mestic violence program operated by a not-for-profit organization or (2)
12 the purchase, establishment, maintenance or expansion of park and rec-
13 reational services, programs and facilities. Moneys in the special alcohol
14 and drug programs fund shall be expended only for the purchase, estab-
15 lishment, maintenance or expansion of services or programs whose prin-
16 cipal purpose is alcoholism and drug abuse prevention and education,
17 alcohol and drug detoxification, intervention in alcohol and drug abuse
18 or treatment of persons who are alcoholics or drug abusers or are in
19 danger of becoming alcoholics or drug abusers.

20 (e) Except as otherwise provided by this subsection, each county trea-
21 surer, upon receipt of any moneys distributed under this section, shall
22 deposit the full amount in the county treasury and shall credit to a special
23 alcohol and drug programs fund in the county treasury $23\frac{1}{3}\%$ of the
24 amount which is collected pursuant to this act from clubs ~~or~~, drinking
25 establishments *or cereal malt beverage retailers* located in the county and
26 within a city that has a population of 6,000 or less, from caterers whose
27 principal place of business is so located or from temporary permit holders
28 whose permitted events are so located and which is paid into the state
29 treasury during the period for which the allocation is made; of the re-
30 mainder, the treasurer shall credit $\frac{1}{3}$ to the general fund of the county,
31 $\frac{1}{3}$ to a special parks and recreation fund in the county treasury and $\frac{1}{3}$ to
32 the special alcohol and drug programs fund. Moneys in such special funds
33 shall be under the direction and control of the board of county commis-
34 sioners. Moneys in the special parks and recreation fund may be expended
35 only for the purchase, establishment, maintenance or expansion of park
36 and recreational services, programs and facilities. One-third of the mon-
37 eys distributed under this section to Butler county shall be deposited in
38 a special community support program and parks and recreation fund in
39 the county treasury. Moneys in the special community support program
40 and parks and recreation fund may be expended only for (1) the estab-
41 lishment and operation of a domestic violence program operated by a
42 not-for-profit organization or (2) the purchase, establishment, mainte-
43 nance or expansion of park and recreational services, programs and fa-

1 cilities. Moneys in the special alcohol and drug programs fund shall be
2 expended only for the purchase, establishment, maintenance or expansion
3 of services or programs whose principal purpose is alcoholism and drug
4 abuse prevention and education, alcohol and drug detoxification, inter-
5 vention in alcohol and drug abuse or treatment of persons who are al-
6 coholics or drug abusers or are in danger of becoming alcoholics or drug
7 abusers. In any county in which there has been organized an alcohol and
8 drug advisory committee, the board of county commissioners shall re-
9 quest and obtain, prior to making any expenditures from the special al-
10 colhol and drug programs fund, the recommendations of the advisory
11 committee concerning such expenditures. The board of county commis-
12 sioners shall adopt the recommendations of the advisory committee con-
13 cerning such expenditures unless the board, by unanimous vote of all
14 commissioners, adopts a different plan for such expenditures.

15 (f) Each year, the county treasurer shall estimate the amount of
16 money the county and each city in the county will receive from the local
17 alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05,
18 and amendments thereto. The state treasurer shall advise each county
19 treasurer, prior to June 1 of each year of the amount in the local alcoholic
20 liquor fund that the state treasurer estimates, using the most recent avail-
21 able information, will be allocated to such county in the following year.
22 The county treasurer shall, before June 15 of each year, notify the treas-
23 urer of each city of the estimated amount in dollars of the distribution
24 to be made from the local alcoholic liquor fund and pursuant to K.S.A.
25 79-41a05, and amendments thereto.

26 Sec. 69. K.S.A. 79-41a06 is hereby amended to read as follows: 79-
27 41a06. No club, drinking establishment, caterer ~~or~~, temporary permit
28 holder *or cereal malt beverage retailer* shall sell any alcoholic liquor *or*
29 *cereal malt beverage* without a registration certificate from the secretary
30 of revenue. Application for such certificate shall be made to the secretary
31 upon forms provided by the secretary and shall contain such information
32 as the secretary deems necessary for the purposes of administering the
33 provisions of this act. The registration certificate shall be conspicuously
34 displayed in the licensed premises or permitted for which it is issued.

35 Upon violation of any of the provisions of K.S.A. 79-41a01 et seq., and
36 amendments thereto, or any of the terms of this act, and upon due notice
37 and opportunity for hearing in accordance with the provisions of the Kan-
38 sas administrative procedure act, the secretary may revoke such registra-
39 tion certificate.

40 Sec. 70. K.S.A. 79-41a07 is hereby amended to read as follows: 79-
41 41a07. (a) The director of taxation or the director of alcoholic beverage
42 control may enjoin any person from engaging in business as a club, drink-
43 ing establishment, caterer ~~or~~, temporary permit holder *or cereal malt*

1 *beverage retailer* when the club, drinking establishment, caterer ~~or~~, tem-
2 porary permit holder *or cereal malt beverage retailer* is in violation of any
3 of the provisions of K.S.A. 79-41a01 et seq., and amendments thereto, or
4 any of the terms of this act and shall be entitled in any proceeding brought
5 for that purpose to have an order restraining the person from engaging
6 in business as a club, drinking establishment, caterer ~~or~~, temporary permit
7 holder *or cereal malt beverage retailer*. No bond shall be required for any
8 such restraining order or for any temporary or permanent injunction is-
9 sued in that proceeding.

10 (b) If a club, drinking establishment ~~or~~, caterer *or cereal malt bev-*
11 *erage retailer* licensed by the director of alcoholic beverage control or a
12 temporary permit holder violates any of the provisions of K.S.A. 79-41a01
13 et seq., and amendments thereto, or any of the terms of this act, the
14 director of alcoholic beverage control may suspend or revoke the license
15 of such club, *drinking establishment or*, caterer *or cereal malt beverage*
16 *retailer* in accordance with K.S.A. 41-2609, and amendments thereto, or
17 may impose a civil fine on the licensee or permit holder in the manner
18 provided by K.S.A. 41-2633a, and amendments thereto.

19 Sec. 71. K.S.A. 79-41a08 is hereby amended to read as follows: 79-
20 41a08. The tax imposed by this act shall be a lien upon the business and
21 any property of the club, drinking establishment, caterer ~~or~~, *temporary*
22 *permit holder or cereal malt beverage retailer* which may be sold. The
23 person acquiring such business or property shall withhold a sufficient
24 amount of the purchase price thereof to cover the amount of any taxes
25 due and unpaid by the seller, until the seller shall furnish the purchaser
26 with a receipt from the secretary of revenue, as herein provided, showing
27 that such taxes have been paid. The purchaser shall be personally liable
28 for the payment of any unpaid taxes of the seller, to the extent of the
29 value of the business or property received by the purchaser, and if a
30 receipt is not furnished by such seller within 20 days from the date of
31 sale of such business or property, the purchaser shall remit the amount
32 of such unpaid taxes to the secretary on or before the 20th day of the
33 month succeeding that in which such purchaser acquired such business
34 or property.

35 Sec. 72. K.S.A. 41-210, 41-211, 41-304, 41-307, 41-308, 41-403, 41-
36 601, 41-602, 41-701, 41-708, 41-717, 41-718, 41-724, 41-725, 41-726, 41-
37 729, 41-806, 41-901, 41-905, 41-1001, 41-1002, 41-1004, 41-1101, 41-
38 1102, 41-1122, 41-1123, 41-1125, 41-2604, 41-2610, 41-2614, 41-2632,
39 41-2637, 41-2641, 41-2642, 41-2643, 41-2705, 41-2706, 41-2707, 41-
40 2709, 41-2712, 41-2722, 41-2726, 79-4101, 79-4102, 79-4103, 79-4104,
41 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07, 79-41a08 and K.S.A.
42 2008 Supp. 41-102, 41-104, 41-209, 41-308b, 41-712, 41-805, 41-2611,
43 41-2645, 41-2701, 41-2702, 41-2703, 41-2704, 41-2708, 41-2728, 79-

- 1 3606, 79-4108 and 79-41a03 are hereby repealed.
- 2 Sec. 73. This act shall take effect and be in force from and after its
- 3 publication in the statute book.