

## SENATE BILL No. 338

By Committee on Ways and Means

4-29

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9 AN ACT concerning taxation; relating to tax on privilege of selling al-  
10 coholic liquor; distribution of revenue; local alcoholic liquor fund;  
11 amending K.S.A. 79-41a04 and K.S.A. 2008 Supp. 79-41a03 and re-  
12 pealing the existing sections.  
13

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

15 Section 1. K.S.A. 2008 Supp. 79-41a03 is hereby amended to read  
16 as follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A.  
17 79-41a02, and amendments thereto, shall become due and payable by the  
18 club, caterer, drinking establishment or temporary permit holder  
19 monthly, or on or before the 25th day of the month immediately suc-  
20 ceeding the month in which it is collected, but any club, caterer, drinking  
21 establishment or temporary permit holder filing an annual or quarterly  
22 return under the Kansas retailers' sales tax act, as prescribed in K.S.A.  
23 79-3607, and amendments thereto, shall, upon such conditions as the  
24 secretary of revenue may prescribe, pay the tax required by this act on  
25 the same basis and at the same time the club, caterer, drinking establish-  
26 ment or temporary permit holder pays such retailers' sales tax. Each club,  
27 caterer, drinking establishment or temporary permit holder shall make a  
28 true report to the department of revenue, on a form prescribed by the  
29 secretary of revenue, providing such information as may be necessary to  
30 determine the amounts to which any such tax shall apply for all gross  
31 receipts derived from the sale of alcoholic liquor by the club, caterer,  
32 drinking establishment or temporary permit holder for the applicable  
33 month or months, which report shall be accompanied by the tax disclosed  
34 thereby. Records of gross receipts derived from the sale of alcoholic liquor  
35 shall be kept separate and apart from the records of other retail sales  
36 made by a club, caterer, drinking establishment or temporary permit  
37 holder in order to facilitate the examination of books and records as pro-  
38 vided herein.

39 (b) The secretary of revenue or the secretary's authorized represen-  
40 tative shall have the right at all reasonable times during business hours  
41 to make such examination and inspection of the books and records of a  
42 club, caterer, drinking establishment or temporary permit holder as may  
43 be necessary to determine the accuracy of such reports required

1 hereunder.

2 (c) The secretary of revenue is hereby authorized to administer and  
3 collect the tax imposed hereunder and to adopt such rules and regulations  
4 as may be necessary for the efficient and effective administration and  
5 enforcement of the collection thereof. Whenever any club, caterer, drink-  
6 ing establishment or temporary permit holder liable to pay the tax im-  
7 posed hereunder refuses or neglects to pay the same, the amount, in-  
8 cluding any penalty, shall be collected in the manner prescribed for the  
9 collection of the retailers' sales tax by K.S.A. 79-3617, and amendments  
10 thereto.

11 (d) The secretary of revenue shall remit all revenue collected under  
12 the provisions of this act to the state treasurer in accordance with the  
13 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
14 each such remittance, the state treasurer shall deposit the entire amount  
15 in the state treasury. Subject to the maintenance requirements of the  
16 local alcoholic liquor refund fund created under K.S.A. 79-41a09, and  
17 amendments thereto, 25% of the remittance shall be credited to the state  
18 general fund, 5% shall be credited to the community alcoholism and in-  
19 toxication programs fund created by K.S.A. 41-1126, and amendments  
20 thereto, and the balance shall be credited to the local alcoholic liquor  
21 fund created by K.S.A. 79-41a04, and amendments thereto, *except that*  
22 *for the period beginning July 1, 2009, and ending June 30, 2010, 48.33%*  
23 *of the remittance shall be credited to the state general fund, 5% shall be*  
24 *credited to the community alcoholism and intoxication programs fund*  
25 *created by K.S.A. 41-1126, and amendments thereto, and the balance shall*  
26 *be credited to the local alcoholic liquor fund created by K.S.A. 79-41a04,*  
27 *and amendments thereto.*

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

34 (f) The amount of tax imposed by this act shall be assessed within  
35 three years after the return is filed, and no proceedings in court for the  
36 collection of such taxes shall be begun after the expiration of such period  
37 except in the cases of fraud. In the case of a false or fraudulent return  
38 with intent to evade tax, the tax may be assessed or a proceeding in court  
39 for collection of such tax may be begun at any time, within two years from  
40 the discovery of such fraud. No refund or credit shall be allowed by the  
41 director after three years from the date of payment of the tax as provided  
42 in this act unless before the expiration of such period a claim therefor is  
43 filed by the taxpayer, and no suit or action to recover on any claim for

1 refund shall be commenced until after the expiration of six months from  
2 the date of filing a claim therefor with the director. Before the expiration  
3 of time prescribed in this section for the assessment of additional tax or  
4 the filing of a claim for refund, the director is hereby authorized to enter  
5 into an agreement in writing with the taxpayer consenting to the extension  
6 of the periods of limitations for the assessment of tax or for the filing of  
7 a claim for refund, at any time prior to the expiration of the periods of  
8 limitations. The period so agreed upon may be extended by subsequent  
9 agreements in writing made before the expiration of the period previously  
10 agreed upon.

11 Sec. 2. K.S.A. 79-41a04 is hereby amended to read as follows: 79-  
12 41a04. (a) There is hereby created, in the state treasury, the local alcoholic  
13 liquor fund. Moneys credited to such fund pursuant to this act or any  
14 other law shall be expended only for the purpose and in the manner  
15 provided by this act.

16 (b) *Except as provided in subsection (c)*, all moneys credited to the  
17 local alcoholic liquor fund shall be allocated to the several cities and coun-  
18 ties of the state as follows:

19 (1) Each city that has a population of more than 6,000 shall receive  
20 70% of the amount which is collected pursuant to this act from clubs or  
21 drinking establishments located in such city, from caterers whose prin-  
22 cipal places of business are so located or from temporary permit holders  
23 whose permitted events are so located and which is paid into the state  
24 treasury during the period for which the allocation is made.

25 (2) Each city that has a population of 6,000 or less shall receive  $46\frac{2}{3}\%$   
26 of the amount which is collected pursuant to this act from clubs or drink-  
27 ing establishments located in such city, from caterers whose principal  
28 places of business are so located or from temporary permit holders whose  
29 permitted events are so located and which is paid into the state treasury  
30 during the period for which the allocation is made.

31 (3) Each county shall receive: (A) 70% of the amount which is col-  
32 lected pursuant to this act from clubs or drinking establishments located  
33 in such county and outside the corporate limits of any city, from caterers  
34 whose principal places of business are so located or from temporary per-  
35 mit holders whose permitted events are so located and which is paid into  
36 the state treasury during the period for which the allocation is made; and  
37 (B)  $23\frac{1}{3}\%$  of the amount which is collected pursuant to this act from  
38 clubs or drinking establishments located in the county and within a city  
39 that has a population of 6,000 or less, from caterers whose principal places  
40 of business are so located or from temporary permit holders whose per-  
41 mitted events are so located and which is paid into the state treasury  
42 during the period for which the allocation is made.

43 (c) *For the period beginning July 1, 2009, and ending June 30, 2010,*

1 *all moneys credited to the local alcoholic liquor fund shall be allocated to*  
2 *the several cities and counties of the state as follows:*

3 (1) *Each city that has a population of more than 6,000 shall receive*  
4 *46<sup>2</sup>/<sub>3</sub>% of the amount which is collected pursuant to this act from clubs*  
5 *or drinking establishments located in such city, from caterers whose prin-*  
6 *cipal places of business are so located or from temporary permit holders*  
7 *whose permitted events are so located and which is paid into the state*  
8 *treasury during the period for which the allocation is made.*

9 (2) *Each city that has a population of 6,000 or less shall receive 23<sup>1</sup>/<sub>3</sub>%*  
10 *of the amount which is collected pursuant to this act from clubs or drink-*  
11 *ing establishments located in such city, from caterers whose principal*  
12 *places of business are so located or from temporary permit holders whose*  
13 *permitted events are so located and which is paid into the state treasury*  
14 *during the period for which the allocation is made.*

15 (3) *Each county shall receive: (A) 46<sup>2</sup>/<sub>3</sub>% of the amount which is col-*  
16 *lected pursuant to this act from clubs or drinking establishments located*  
17 *in such county and outside the corporate limits of any city, from caterers*  
18 *whose principal places of business are so located or from temporary per-*  
19 *mit holders whose permitted events are so located and which is paid into*  
20 *the state treasury during the period for which the allocation is made; and*  
21 *(B) 23<sup>1</sup>/<sub>3</sub>% of the amount which is collected pursuant to this act from clubs*  
22 *or drinking establishments 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 permitted*  
25 *events are so located and which is paid into the state treasury during the*  
26 *period for which the allocation is made.*

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

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

21 *(f) Except as otherwise provided by this subsection, for the period*  
22 *beginning July 1, 2009, and ending June 30, 2010, each city treasurer of*  
23 *a city that has a population of more than 6,000, upon receipt of any*  
24 *moneys distributed under this section, shall deposit the full amount in the*  
25 *city treasury and shall credit 50% of the deposit to the general fund of*  
26 *the city and 50% to a special alcohol and drug programs fund in the city*  
27 *treasury. Each city treasurer of a city that has a population of 6,000 or*  
28 *less, upon receipt of any moneys distributed under this section, shall de-*  
29 *posit the full amount in the city treasury and shall credit 100% of the*  
30 *deposit to the general fund of the city. Moneys in such special funds shall*  
31 *be under the direction and control of the governing body of the city.*  
32 *Moneys in the special alcohol and drug programs fund shall be expended*  
33 *only for the purchase, establishment, maintenance or expansion of services*  
34 *or programs whose principal purpose is alcoholism and drug abuse pre-*  
35 *vention and education, alcohol and drug detoxification, intervention in*  
36 *alcohol and drug abuse or treatment of persons who are alcoholics or*  
37 *drug abusers or are in danger of becoming alcoholics or drug abusers.*

38 ~~(e)~~ (g) Except as otherwise provided by this subsection, each county  
39 treasurer, upon receipt of any moneys distributed under this section, shall  
40 deposit the full amount in the county treasury and shall credit to a special  
41 alcohol and drug programs fund in the county treasury  $23\frac{1}{3}\%$  of the  
42 amount which is collected pursuant to this act from clubs or drinking  
43 establishments located in the county and within a city that has a popu-

1 lation of 6,000 or less, from caterers whose principal place of business is  
2 so located or from temporary permit holders whose permitted events are  
3 so located and which is paid into the state treasury during the period for  
4 which the allocation is made; of the remainder, the treasurer shall credit  
5  $\frac{1}{3}$  to the general fund of the county,  $\frac{1}{3}$  to a special parks and recreation  
6 fund in the county treasury and  $\frac{1}{3}$  to the special alcohol and drug pro-  
7 grams fund. Moneys in such special funds shall be under the direction  
8 and control of the board of county commissioners. Moneys in the special  
9 parks and recreation fund may be expended only for the purchase, estab-  
10 lishment, maintenance or expansion of park and recreational services,  
11 programs and facilities. One-third of the moneys distributed under this  
12 section to Butler county shall be deposited in a special community support  
13 program and parks and recreation fund in the county treasury. Moneys  
14 in the special community support program and parks and recreation fund  
15 may be expended only for (1) the establishment and operation of a do-  
16 mestic violence program operated by a not-for-profit organization or (2)  
17 the purchase, establishment, maintenance or expansion of park and rec-  
18 reational services, programs and facilities. Moneys in the special alcohol  
19 and drug programs fund shall be expended only for the purchase, estab-  
20 lishment, maintenance or expansion of services or programs whose prin-  
21 cipal purpose is alcoholism and drug abuse prevention and education,  
22 alcohol and drug detoxification, intervention in alcohol and drug abuse  
23 or treatment of persons who are alcoholics or drug abusers or are in  
24 danger of becoming alcoholics or drug abusers. In any county in which  
25 there has been organized an alcohol and drug advisory committee, the  
26 board of county commissioners shall request and obtain, prior to making  
27 any expenditures from the special alcohol and drug programs fund, the  
28 recommendations of the advisory committee concerning such expendi-  
29 tures. The board of county commissioners shall adopt the recommenda-  
30 tions of the advisory committee concerning such expenditures unless the  
31 board, by unanimous vote of all commissioners, adopts a different plan  
32 for such expenditures.

33 ~~(f)~~ (h) Each year, the county treasurer shall estimate the amount of  
34 money the county and each city in the county will receive from the local  
35 alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05,  
36 and amendments thereto. The state treasurer shall advise each county  
37 treasurer, prior to June 1 of each year of the amount in the local alcoholic  
38 liquor fund that the state treasurer estimates, using the most recent avail-  
39 able information, will be allocated to such county in the following year.  
40 The county treasurer shall, before June 15 of each year, notify the trea-  
41 surer of each city of the estimated amount in dollars of the distribution  
42 to be made from the local alcoholic liquor fund and pursuant to K.S.A.  
43 79-41a05, and amendments thereto.

1     Sec. 3. K.S.A. 79-41a04 and K.S.A. 2008 Supp. 79-41a03 are hereby  
2 repealed.  
3     Sec. 4. This act shall take effect and be in force from and after its  
4 publication in the statute book.