

HOUSE BILL No. 2593

By Committee on Taxation

2-1

9 AN ACT concerning taxation; relating to tax on alcoholic liquor, cereal
10 malt beverage and malt products; rates; distribution of revenue; cre-
11 ating the developmental disabilities supplemental programs fund and
12 the community mental health centers supplemental programs fund;
13 amending K.S.A. 2009 Supp. 41-501 and repealing the existing section.
14

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

16 Section 1. K.S.A. 2009 Supp. 41-501 is hereby amended to read as
17 follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and
18 amendments thereto:

19 (1) "Gallon" means wine gallon.

20 (2) "Federal area" means any lands or premises which are located
21 within the exterior boundaries of this state and which are held or acquired
22 by or for the use of the United States or any department, establishment
23 or agency of the United States.

24 (3) "Malt product" means malt syrup, malt extract, liquid malt or
25 wort.

26 (b) (1) For the purpose of raising revenue a tax is imposed upon the
27 manufacturing, using, selling, storing or purchasing alcoholic liquor, ce-
28 real malt beverage or malt products in this state or a federal area at a rate
29 of ~~\$.18~~ \$.36 per gallon on beer and cereal malt beverage; ~~\$.20~~ \$.40 per
30 gallon on all wort or liquid malt; ~~\$.10~~ \$.20 per pound on all malt syrup
31 or malt extract; ~~\$.30~~ \$.60 per gallon on wine containing 14% or less al-
32cohol by volume; ~~\$.75~~ \$1.50 per gallon on wine containing more than
33 14% alcohol by volume; and ~~\$2.50~~ \$5.00 per gallon on alcohol and spirits.

34 (2) The tax imposed by this section shall be paid only once and shall
35 be paid by the person in this state or federal area who first manufactures,
36 uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt
37 beverage. The tax shall be collected and paid to the director as provided
38 in this act. If the alcoholic liquor or cereal malt beverage is manufactured
39 and sold in this state or a federal area, the tax shall be paid by the man-
40 ufacturer, microbrewery or farm winery producing it. If the alcoholic
41 liquor or cereal malt beverage is imported into this state by a distributor
42 for the purpose of sale at wholesale in this state or a federal area, the tax
43 shall be paid by the distributor, and in no event shall such tax be paid by

1 the manufacturer unless the alcoholic liquor or cereal malt beverage is
2 manufactured in this state. If not to exceed one gallon, or metric equiv-
3 alent, per person of alcoholic liquor has been purchased by a private
4 citizen outside the borders of the United States and is brought into this
5 state by the private citizen in such person's personal possession for such
6 person's own personal use and not for sale or resale, such import is lawful
7 and no tax payment shall be due thereon.

8 (c) Manufacturers, microbreweries, farm wineries or distributors at
9 wholesale of alcoholic liquor or cereal malt beverage shall be exempt from
10 the payment of the gallonage tax imposed on alcoholic liquor and cereal
11 malt beverage, upon satisfactory proof, including bills of lading furnished
12 to the director by affidavit or otherwise as the director requires, that the
13 liquor or cereal malt beverage was manufactured in this state but was
14 shipped out of the state for sale and consumption outside the state.

15 (d) Wines manufactured or imported solely and exclusively for sac-
16 ramental purposes and uses shall not be subject to the tax provided for
17 by this section.

18 (e) The tax provided for by this section is not imposed upon:

19 (1) Any alcohol or wine, whether manufactured in or imported into
20 this state, when sold to a nonbeverage user licensed by the state, for use
21 in the manufacture of any of the following when they are unfit for bev-
22 erage purposes: Patent and proprietary medicines and medicinal, anti-
23 septic and toilet preparations; flavoring extracts and syrups and food prod-
24 ucts; scientific, industrial and chemical products; or scientific, chemical,
25 experimental or mechanical purposes; or

26 (2) the privilege of engaging in any business of interstate commerce
27 or otherwise, which business may not be made the subject of taxation by
28 this state under the constitution and statutes of the United States.

29 (f) The tax imposed by this section shall be in addition to all other
30 taxes imposed by the state of Kansas or by any municipal corporation or
31 political subdivision thereof.

32 (g) Retail sales of alcoholic liquor, sales of beer to consumers by mi-
33 crobreweries and sales of wine to consumers by farm wineries shall not
34 be subject to the tax imposed by the Kansas retailers' sales tax act but
35 shall be subject to the enforcement tax provided for in this act.

36 (h) Notwithstanding any ordinance to the contrary, no city shall im-
37 pose an occupation or privilege tax on the business of any person, firm
38 or corporation licensed as a manufacturer, distributor, microbrewery,
39 farm winery, retailer or nonbeverage user under this act and doing busi-
40 ness within the boundaries of the city except as specifically authorized by
41 K.S.A. 41-310, and amendments thereto.

42 (i) The director shall collect the taxes imposed by this section and
43 shall account for and remit all moneys collected from the tax to the state

1 treasurer in accordance with the provisions of K.S.A. 75-4215, and
2 amendments thereto. Upon receipt of each such remittance, the state
3 treasurer shall deposit the entire amount in the state treasury and the
4 state treasurer shall credit ~~4/10~~ 5% of the moneys collected from taxes
5 imposed upon alcohol and spirits under subsection (b)(1) to the com-
6 munity alcoholism and intoxication programs fund created by K.S.A. 41-
7 1126, and amendments thereto, *and 25% of the moneys collected from*
8 *taxes imposed upon alcohol and spirits, beer and cereal malt beverages,*
9 *wort or liquid malt, malt syrup or malt extract, and all wine under section*
10 *(b)(1) to the developmental disabilities supplemental programs fund cre-*
11 *ated by section 3, and amendments thereto, and 25% of the moneys col-*
12 *lected from taxes imposed upon alcohol and spirits, beer and cereal malt*
13 *beverages, wort or liquid malt, malt syrup or malt extract, and all wine*
14 *under section (b)(1) to the community mental health centers supplemental*
15 *programs fund created by section 4, and amendments thereto, and shall*
16 credit the balance of the moneys collected to the state general fund.

17 (j) If any alcoholic liquor manufactured in or imported into this state
18 is sold to a licensed manufacturer or distributor of this state to be used
19 solely as an ingredient in the manufacture of any beverage for human
20 consumption, the tax imposed upon the manufacturer or distributor shall
21 be reduced by the amount of the taxes which have been paid under this
22 section as to the alcoholic liquor so used.

23 (k) The tax provided for by this section is not imposed upon alcohol
24 or wine used by any school or college for scientific, chemical, experimen-
25 tal or mechanical purposes or by hospitals, sanitoria or other institutions
26 caring for the sick. Any school, college, hospital, sanatorium or other
27 institution caring for the sick may import alcohol or wine for scientific,
28 chemical, experimental, mechanical or medicinal purposes by making ap-
29 plication to the director for a permit to import it and receiving such a
30 permit. Application for the permit shall be on a form prescribed and
31 furnished by the director, and a separate permit shall be required for
32 each purchase of alcohol or wine. A fee of \$2 shall accompany each ap-
33 plication. All permits shall be issued in triplicate to the applicant and shall
34 be under the seal of the office of the director. Two copies of the permit
35 shall be forwarded by the applicant to the microbrewery, farm winery,
36 manufacturer or distributor from which the alcohol or wine is purchased,
37 and the microbrewery, farm winery, manufacturer or distributor shall
38 return to the office of the director one copy of the permit with its shipping
39 affidavit and invoice. Within 10 days after receipt of any alcohol or wine,
40 the school, college, hospital or sanatorium ordering it shall file a report
41 in the office of the director upon forms furnished by the director, showing
42 the amount of alcohol or wine received, the place where it is to be stored,
43 from whom it was received, the purpose for which it is to be used and

1 such other information as required by the director. Any school, college,
2 hospital, sanatorium or institution caring for the sick, which complies with
3 the provisions of this subsection, shall not be required to have any other
4 license to purchase alcohol or wine from a microbrewery, farm winery,
5 manufacturer or distributor.

6 New Sec. 2. On July 1, 2010, a tax at the rate of \$.18 per gallon on
7 all beer and cereal malt beverage, \$.30 per gallon for wine containing
8 14% or less of alcohol by volume, \$.75 per gallon for wine containing
9 more than 14% of alcohol by volume, \$2.50 per gallon on alcohol and
10 spirits, \$.20 per gallon on wort and liquid malt, and \$.10 per pound of
11 malt syrup and malt extract, is hereby imposed on the manufacture, use,
12 sale, storage or purchase of such alcoholic liquors owned at 12:01 a.m. on
13 July 1, 2010, by a licensed distributor or retail dealer as to which the tax
14 has been imposed as provided in K.S.A. 41-501, and amendments thereto.
15 Such tax shall be paid by the licensed distributor or retail dealer owning
16 such alcoholic liquors, cereal malt beverage or beer at such time and date.
17 On or before July 25, 2010, every such distributor and retail dealer shall
18 make a report to the director on a form prescribed and furnished by the
19 director showing the total number of gallons of such alcoholic liquors,
20 cereal malt beverage or beer so owned at 12:01 a.m. on July 2, 2010, and
21 such report shall be accompanied by a remittance of the tax due.

22 The license of any licensed distributor or retail dealer who shall fail to
23 make such report or pay such tax, within the time hereinbefore pre-
24 scribed, shall be subject to suspension or revocation as provided by K.S.A.
25 41-320, and amendments thereto. All taxes collected by the director un-
26 der this section shall be paid into the state treasury and the state treasurer
27 shall credit 50% of the moneys collected to the developmental disabilities
28 supplemental programs fee fund and 50% of the moneys collected to the
29 community mental health centers supplemental programs fee fund.

30 New Sec. 3. The developmental disabilities supplemental programs
31 fee fund is hereby created in the state treasury and shall be administered
32 by the department of social and rehabilitation services. All expenditures
33 from the developmental disabilities supplemental programs fee fund shall
34 be made in accordance with appropriation acts upon warrants of the di-
35 rector of accounts and reports issued pursuant to vouchers approved by
36 the secretary of social and rehabilitation services or by a person or persons
37 designated by the secretary. All moneys in the developmental disabilities
38 supplemental programs fund shall be expended for the purposes of pro-
39 viding services for persons on the waiting lists for the home and com-
40 munity based services waiver for persons with developmental disabilities
41 or for the purpose of increased rates of payment to service providers
42 under the home and community based services waiver for persons with
43 developmental disabilities.

1 New Sec. 4. The community mental health centers supplemental
2 programs fee fund is hereby created in the state treasury and shall be
3 administered by the department of social and rehabilitation services. All
4 expenditures from the community mental health centers supplemental
5 programs fee fund shall be made in accordance with appropriation acts
6 upon warrants of the director of accounts and reports issued pursuant to
7 vouchers approved by the secretary of social and rehabilitation services
8 or by a person or persons designated by the secretary. All moneys in the
9 community mental health centers supplemental programs fund shall be
10 expended for the purpose of providing additional funding to the com-
11 munity mental health centers which provide services to all individuals
12 regardless of ability to pay, and for which adequate funding is not always
13 available for those individuals who do not qualify for direct reimburse-
14 ment from state or federal assistance programs.

15 Sec. 5. K.S.A. 2009 Supp. 41-501 is hereby repealed.

16 Sec. 6. This act shall take effect and be in force from and after its
17 publication in the Kansas register.