

HOUSE BILL No. 2476

By Committee on Federal and State Affairs

1-17

1 AN ACT concerning alcoholic beverages; relating to the definition of
2 alcoholic liquor, including alcoholic candy and confectionary products
3 to the definition of alcoholic liquor; amending K.S.A. 2016 Supp. 41-
4 102, as amended by section 4 of chapter 56 of the 2017 Session Laws
5 of Kansas and K.S.A. 2017 Supp. 41-102 and repealing the existing
6 sections; also repealing K.S.A. 2017 Supp. 41-102, as amended by
7 section 1 of this act.
8

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

10 Section 1. K.S.A. 2017 Supp. 41-102 is hereby amended to read as
11 follows: 41-102. As used in this act, unless the context clearly requires
12 otherwise:

13 (a) "Alcohol" means the product of distillation of any fermented
14 liquid, whether rectified or diluted, whatever its origin, and includes
15 synthetic ethyl alcohol but does not include denatured alcohol or wood
16 alcohol.

17 (b) "*Alcoholic candy*" means any candy or other confectionary
18 product with an alcohol content greater than 0.5% alcohol by volume.

19 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, *alcoholic*
20 *candy* and every liquid or solid, patented or not, containing alcohol, spirits,
21 wine or beer and capable of being consumed ~~as a beverage~~ by a human
22 being, but shall not include any cereal malt beverage.

23 ~~(d)~~ (d) "Beer" means a beverage, containing more than 3.2% alcohol
24 by weight, obtained by alcoholic fermentation of an infusion or concoction
25 of barley, or other grain, malt and hops in water and includes beer, ale,
26 stout, lager beer, porter and similar beverages having such alcoholic
27 content.

28 ~~(e)~~ (e) "Caterer" has the meaning provided by K.S.A. 41-2601, and
29 amendments thereto.

30 ~~(f)~~ (f) "Cereal malt beverage" has the meaning provided by K.S.A.
31 41-2701, and amendments thereto.

32 ~~(g)~~ (g) "Club" has the meaning provided by K.S.A. 41-2601, and
33 amendments thereto.

34 ~~(h)~~ (h) "Director" means the director of alcoholic beverage control of
35 the department of revenue.

36 ~~(i)~~ (i) "Distributor" means the person importing or causing to be

1 imported into the state, or purchasing or causing to be purchased within
2 the state, alcoholic liquor for sale or resale to retailers licensed under this
3 act or cereal malt beverage for sale or resale to retailers licensed under
4 K.S.A. 41-2702, and amendments thereto.

5 ~~(j)~~ (j) "Domestic beer" means beer which contains not more than 10%
6 alcohol by weight and which is manufactured in this state.

7 ~~(k)~~ (k) "Domestic fortified wine" means wine which contains more
8 than 14%, but not more than 20% alcohol by volume and which is
9 manufactured in this state.

10 ~~(l)~~ (l) "Domestic table wine" means wine which contains not more
11 than 14% alcohol by volume and which is manufactured without
12 rectification or fortification in this state.

13 ~~(m)~~ (m) "Drinking establishment" has the meaning provided by K.S.A.
14 41-2601, and amendments thereto.

15 ~~(n)~~ (n) "Farm winery" means a winery licensed by the director to
16 manufacture, store and sell domestic table wine and domestic fortified
17 wine.

18 ~~(o)~~ (o) "Hard cider" means any alcoholic beverage that:

19 (1) Contains less than 8.5% alcohol by volume;

20 (2) has a carbonation level that does not exceed 6.4 grams per liter;
21 and

22 (3) is obtained by the normal alcoholic fermentation of the juice of
23 sound, ripe apples or pears, including such beverages containing sugar
24 added for the purpose of correcting natural deficiencies.

25 ~~(p)~~ (p) "Manufacture" means to distill, rectify, ferment, brew, make,
26 mix, concoct, process, blend, bottle or fill an original package with any
27 alcoholic liquor, beer or cereal malt beverage.

28 ~~(q)~~ (q) (1) "Manufacturer" means every brewer, fermenter, distiller,
29 rectifier, wine maker, blender, processor, bottler or person who fills or
30 refills an original package and others engaged in brewing, fermenting,
31 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
32 beverage.

33 (2) "Manufacturer" does not include a microbrewery, microdistillery
34 or a farm winery.

35 ~~(r)~~ (r) "Microbrewery" means a brewery licensed by the director to
36 manufacture, store and sell domestic beer and hard cider.

37 ~~(s)~~ (s) "Microdistillery" means a facility which produces spirits from
38 any source or substance that is licensed by the director to manufacture,
39 store and sell spirits.

40 ~~(t)~~ (t) "Minor" means any person under 21 years of age.

41 ~~(u)~~ (u) "Nonbeverage user" means any manufacturer of any of the
42 products set forth and described in K.S.A. 41-501, and amendments
43 thereto, when the products contain alcohol or wine, and all laboratories

1 using alcohol for nonbeverage purposes.

2 ~~(tt)~~ (v) "Original package" means any bottle, flask, jug, can, cask,
3 barrel, keg, hogshead or other receptacle or container whatsoever, used,
4 corked or capped, sealed and labeled by the manufacturer of alcoholic
5 liquor, to contain and to convey any alcoholic liquor. Original container
6 does not include a sleeve.

7 ~~(vv)~~ (w) "Person" means any natural person, corporation, partnership,
8 trust or association.

9 ~~(ww)~~ (x) "Powdered alcohol" means alcohol that is prepared in a
10 powdered or crystal form for either direct use or for reconstitution in a
11 nonalcoholic liquid.

12 ~~(xx)~~ (y) "Primary American source of supply" means the manufacturer,
13 the owner of alcoholic liquor at the time it becomes a marketable product
14 or the manufacturer's or owner's exclusive agent who, if the alcoholic
15 liquor cannot be secured directly from such manufacturer or owner by
16 American wholesalers, is the source closest to such manufacturer or owner
17 in the channel of commerce from which the product can be secured by
18 American wholesalers.

19 ~~(yy)~~ (z) (1) "Retailer" means a person who sells at retail, or offers for
20 sale at retail, alcoholic liquors.

21 (2) "Retailer" does not include a microbrewery, microdistillery or a
22 farm winery.

23 ~~(zz)~~ (aa) "Sale" means any transfer, exchange or barter in any manner
24 or by any means whatsoever for a consideration and includes all sales
25 made by any person, whether principal, proprietor, agent, servant or
26 employee.

27 ~~(aaa)~~ (bb) "Salesperson" means any natural person who:

28 (1) Procures or seeks to procure an order, bargain, contract or
29 agreement for the sale of alcoholic liquor or cereal malt beverage; or

30 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
31 beverage, or in promoting the business of any person, firm or corporation
32 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
33 beverage, whether the seller resides within the state of Kansas and sells to
34 licensed buyers within the state of Kansas, or whether the seller resides
35 without the state of Kansas and sells to licensed buyers within the state of
36 Kansas.

37 ~~(bbb)~~ (cc) "Secretary" means the secretary of revenue.

38 ~~(eee)~~ (dd) (1) "Sell at retail" and "sale at retail" refer to and mean sales
39 for use or consumption and not for resale in any form and sales to clubs,
40 licensed drinking establishments, licensed caterers or holders of temporary
41 permits.

42 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by
43 a distributor, a microbrewery, a farm winery, a licensed club, a licensed

1 drinking establishment, a licensed caterer or a holder of a temporary
2 permit.

3 ~~(dd)~~ (ee) "To sell" includes to solicit or receive an order for, to keep
4 or expose for sale and to keep with intent to sell.

5 ~~(ee)~~ (ff) "Sleeve" means a package of two or more 50-milliliter (3.2-
6 fluid-ounce) containers of spirits.

7 ~~(ff)~~ (gg) "Spirits" means any beverage which contains alcohol
8 obtained by distillation, mixed with water or other substance in solution,
9 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
10 such liquors when rectified, blended or otherwise mixed with alcohol or
11 other substances.

12 ~~(gg)~~ (hh) "Supplier" means a manufacturer of alcoholic liquor or
13 cereal malt beverage or an agent of such manufacturer, other than a
14 salesperson.

15 ~~(hh)~~ (ii) "Temporary permit" has the meaning provided by K.S.A. 41-
16 2601, and amendments thereto.

17 ~~(ii)~~ (jj) "Wine" means any alcoholic beverage obtained by the normal
18 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or
19 other agricultural products, including such beverages containing added
20 alcohol or spirits or containing sugar added for the purpose of correcting
21 natural deficiencies. The term "wine" shall include hard cider and any
22 other product that is commonly known as a subset of wine.

23 Sec. 2. On and after April 1, 2019 K.S.A. 2016 Supp. 41-102, as
24 amended by section 4 of chapter 56 of the 2017 Session Laws of Kansas,
25 is hereby amended to read as follows: 41-102. As used in this act, unless
26 the context clearly requires otherwise:

27 (a) "Alcohol" means the product of distillation of any fermented
28 liquid, whether rectified or diluted, whatever its origin, and includes
29 synthetic ethyl alcohol but does not include denatured alcohol or wood
30 alcohol.

31 (b) *"Alcoholic candy" means any candy or other confectionary*
32 *product with an alcohol content greater than 0.5% alcohol by volume.*

33 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, *alcoholic*
34 *candy* and every liquid or solid, patented or not, containing alcohol, spirits,
35 wine or beer and capable of being consumed ~~as a beverage~~ by a human
36 being, but shall not include any cereal malt beverage.

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

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

- 1 ~~(e)~~ (f) "Cereal malt beverage" has the meaning provided by K.S.A.
2 41-2701, and amendments thereto.
- 3 ~~(f)~~ (g) "Club" has the meaning provided by K.S.A. 41-2601, and
4 amendments thereto.
- 5 ~~(g)~~ (h) "Director" means the director of alcoholic beverage control of
6 the department of revenue.
- 7 ~~(h)~~ (i) "Distributor" means the person importing or causing to be
8 imported into the state, or purchasing or causing to be purchased within
9 the state, alcoholic liquor for sale or resale to retailers licensed under this
10 act or cereal malt beverage for sale or resale to retailers licensed under
11 K.S.A. 41-2702, and amendments thereto.
- 12 ~~(i)~~ (j) "Domestic beer" means beer which contains not more than 10%
13 alcohol by weight and which is manufactured in this state.
- 14 ~~(j)~~ (k) "Domestic fortified wine" means wine which contains more
15 than 14%, but not more than 20% alcohol by volume and which is
16 manufactured in this state.
- 17 ~~(k)~~ (l) "Domestic table wine" means wine which contains not more
18 than 14% alcohol by volume and which is manufactured without
19 rectification or fortification in this state.
- 20 ~~(l)~~ (m) "Drinking establishment" has the meaning provided by K.S.A.
21 41-2601, and amendments thereto.
- 22 ~~(m)~~ (n) "Farm winery" means a winery licensed by the director to
23 manufacture, store and sell domestic table wine and domestic fortified
24 wine.
- 25 ~~(n)~~ (o) "Hard cider" means any alcoholic beverage that:
26 (1) Contains less than 8.5% alcohol by volume;
27 (2) has a carbonation level that does not exceed 6.4 grams per liter;
28 and
29 (3) is obtained by the normal alcoholic fermentation of the juice of
30 sound, ripe apples or pears, including such beverages containing sugar
31 added for the purpose of correcting natural deficiencies.
- 32 ~~(o)~~ (p) "Manufacture" means to distill, rectify, ferment, brew, make,
33 mix, concoct, process, blend, bottle or fill an original package with any
34 alcoholic liquor, beer or cereal malt beverage.
- 35 ~~(p)~~ (q) (1) "Manufacturer" means every brewer, fermenter, distiller,
36 rectifier, wine maker, blender, processor, bottler or person who fills or
37 refills an original package and others engaged in brewing, fermenting,
38 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
39 beverage.
- 40 (2) "Manufacturer" does not include a microbrewery, microdistillery
41 or a farm winery.
- 42 ~~(q)~~ (r) "Microbrewery" means a brewery licensed by the director to
43 manufacture, store and sell domestic beer and hard cider.

- 1 ~~(s)~~ (s) "Microdistillery" means a facility which produces spirits from
- 2 any source or substance that is licensed by the director to manufacture,
- 3 store and sell spirits.
- 4 ~~(t)~~ (t) "Minor" means any person under 21 years of age.
- 5 ~~(u)~~ (u) "Nonbeverage user" means any manufacturer of any of the
- 6 products set forth and described in K.S.A. 41-501, and amendments
- 7 thereto, when the products contain alcohol or wine, and all laboratories
- 8 using alcohol for nonbeverage purposes.
- 9 ~~(v)~~ (v) "Original package" means any bottle, flask, jug, can, cask,
- 10 barrel, keg, hogshead or other receptacle or container whatsoever, used,
- 11 corked or capped, sealed and labeled by the manufacturer of alcoholic
- 12 liquor, to contain and to convey any alcoholic liquor. Original container
- 13 does not include a sleeve.
- 14 ~~(w)~~ (w) "Person" means any natural person, corporation, partnership,
- 15 trust or association.
- 16 ~~(x)~~ (x) "Powdered alcohol" means alcohol that is prepared in a
- 17 powdered or crystal form for either direct use or for reconstitution in a
- 18 nonalcoholic liquid.
- 19 ~~(y)~~ (y) "Primary American source of supply" means the manufacturer,
- 20 the owner of alcoholic liquor at the time it becomes a marketable product
- 21 or the manufacturer's or owner's exclusive agent who, if the alcoholic
- 22 liquor cannot be secured directly from such manufacturer or owner by
- 23 American wholesalers, is the source closest to such manufacturer or owner
- 24 in the channel of commerce from which the product can be secured by
- 25 American wholesalers.
- 26 ~~(z)~~ (z) (1) "Retailer" means a person who is licensed under the
- 27 Kansas liquor control act and sells at retail, or offers for sale at retail,
- 28 alcoholic liquors or cereal malt beverages.
- 29 (2) "Retailer" does not include a microbrewery, microdistillery or a
- 30 farm winery.
- 31 ~~(aa)~~ (aa) "Sale" means any transfer, exchange or barter in any manner
- 32 or by any means whatsoever for a consideration and includes all sales
- 33 made by any person, whether principal, proprietor, agent, servant or
- 34 employee.
- 35 ~~(bb)~~ (bb) "Salesperson" means any natural person who:
- 36 (1) Procures or seeks to procure an order, bargain, contract or
- 37 agreement for the sale of alcoholic liquor or cereal malt beverage; or
- 38 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
- 39 beverage, or in promoting the business of any person, firm or corporation
- 40 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
- 41 beverage, whether the seller resides within the state of Kansas and sells to
- 42 licensed buyers within the state of Kansas, or whether the seller resides
- 43 without the state of Kansas and sells to licensed buyers within the state of

1 Kansas.

2 ~~(bb)~~ (cc) "Secretary" means the secretary of revenue.

3 ~~(ee)~~ (dd) (1) "Sell at retail" and "sale at retail" refer to and mean sales
4 for use or consumption and not for resale in any form and sales to clubs,
5 licensed drinking establishments, licensed caterers or holders of temporary
6 permits.

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

11 ~~(dd)~~ (ee) "To sell" includes to solicit or receive an order for, to keep
12 or expose for sale and to keep with intent to sell.

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14 fluid-ounce) containers of spirits.

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16 obtained by distillation, mixed with water or other substance in solution,
17 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
18 such liquors when rectified, blended or otherwise mixed with alcohol or
19 other substances.

20 ~~(gg)~~ (hh) "Supplier" means a manufacturer of alcoholic liquor or
21 cereal malt beverage or an agent of such manufacturer, other than a
22 salesperson.

23 ~~(hh)~~ (ii) "Temporary permit" has the meaning provided by K.S.A. 41-
24 2601, and amendments thereto.

25 ~~(ii)~~ (jj) "Wine" means any alcoholic beverage obtained by the normal
26 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or
27 other agricultural products, including such beverages containing added
28 alcohol or spirits or containing sugar added for the purpose of correcting
29 natural deficiencies. The term "wine" shall include hard cider and any
30 other product that is commonly known as a subset of wine.

31 Sec. 3. K.S.A. 2017 Supp. 41-102 is hereby repealed.

32 Sec. 4. On and after April 1, 2019, K.S.A. 2016 Supp. 41-102, as
33 amended by section 4 of chapter 56 of the 2017 Session Laws of Kansas,
34 and K.S.A. 2017 Supp. 41-102, as amended by section 1 of this act are
35 hereby repealed.

36 Sec. 5. This act shall take effect and be in force from and after its
37 publication in the statute book.