

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 70** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 7, following line 2, by inserting:

"New Sec. 7. Chambourcin, a complex red wine grape variety, is hereby designated as the official red wine grape of the state of Kansas.

New Sec. 8. Vignoles, a complex white wine grape variety, is hereby designated as the official white wine grape of the state of Kansas.

New Sec. 9. (a) Every express company or other common carrier that delivers any alcoholic liquors from outside the state for delivery in the state to consumers shall prepare and file monthly with the director of alcoholic beverage control a report of known alcoholic liquors shipped by such carrier. The report shall contain: (1) The name of the express company or other common carrier that delivers the alcoholic liquors; (2) the period of time covered by the report; (3) the name and business address of the consignor of such alcoholic liquors; (4) the weight of the package delivered to each consignee; (5) a unique tracking number; and (6) the date of delivery. Except as provided for in subsection (d), all reports submitted pursuant to this subsection shall be open records available for public inspection in accordance with the open records act.

(b) Upon request by the director, any additional records supporting the report shall be made available to the director by any express company or other common carrier. Any records

containing information relating to such reports shall be kept and preserved for a period of two years unless the destruction of such records is authorized in writing by the director.

(c) Any express company or other common carrier that willfully fails, neglects or refuses to file any report pursuant to subsection (a) shall be subject to a civil penalty of not more than \$500.

(d) If any of the reports required by subsection (a) include any information relating to the name or address of a consignee of any alcoholic liquors, such information shall be redacted from the reports that are made available for public inspection. The provisions of this subsection providing for the confidentiality of certain public records shall expire on July 1, 2024, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2024.

(e) The provisions of this section shall be a part of and supplemental to the Kansas liquor control act.";

On page 10, following line 14, by inserting:

"Sec. 11. K.S.A. 2018 Supp. 41-304 is hereby amended to read as follows: 41-304. Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) spirits distributor's license; (c) wine distributor's license; (d) beer distributor's license; (e) retailer's license; (f) microbrewery license; (g) microdistillery license; (h) farm winery license; (i) producer's license; and ~~(i)~~ (j) nonbeverage user's license.";

Also on page 10, in line 24, after "(3)" by inserting "the manufacture for and sale of wine to holders of producer licenses as authorized by K.S.A. 2018 Supp. 41-355, and amendments thereto. Wine manufactured for a producer licensee shall be included in the farm winery licensee's annual production for purposes of subsection (c). The label for any such wine

manufactured by the farm winery licensee, as filed with the alcohol and tobacco tax and trade bureau of the United States department of the treasury, may be owned by either the farm winery or the producer licensee for whom the wine was manufactured;

(4) ";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 12, following line 35, by inserting:

"Sec. 13. K.S.A. 2018 Supp. 41-310 is hereby amended to read as follows: 41-310. (a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

(b) The fee for a manufacturer's license to manufacture alcohol and spirits shall be \$5,000.

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

- (1) For 1 to 100 barrel daily capacity or any part thereof, \$400.
- (2) For 100 to 150 barrel daily capacity, \$800.
- (3) For 150 to 200 barrel daily capacity, \$1,400.
- (4) For 200 to 300 barrel daily capacity, \$2,000.
- (5) For 300 to 400 barrel daily capacity, \$2,600.
- (6) For 400 to 500 barrel daily capacity, \$2,800.
- (7) For 500 or more barrel daily capacity, \$3,200.

As used in this subsection, "daily capacity" means the average daily barrel production for the previous 12 months of manufacturing operation. If no basis for comparison exists, the licensee shall pay in advance for operation during the first term of the license a fee of \$2,000.

(d) The fee for a manufacturer's license to manufacture wine shall be \$1,000.

(e) (1) The fee for a microbrewery license, a microdistillery license or a farm winery license shall be \$500.

(2) The fee for a winery outlet license shall be \$100.

(3) The fee for a microbrewery packaging and warehousing facility license shall be \$200.

(4) The fee for a microdistillery packaging and warehousing facility license shall be \$200.

(f) The fee for a spirits distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing spirits shall be \$2,000.

(g) The fee for a wine distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing wine shall be \$2,000.

(h) The fee for a beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the licensee and wholesaling or jobbing beer and cereal malt beverage shall be \$2,000.

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

(1) For class 1, \$20.

(2) For class 2, \$100.

(3) For class 3, \$200.

(4) For class 4, \$400.

(5) For class 5, \$1,000.

(j) In addition to the license fees prescribed by subsections (b), (c), (d), (f), (g), (h) and (i):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the license, but no city shall impose an occupation or privilege tax on the licensee in excess of that amount; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the license, but no township shall impose an occupation or privilege tax on the licensee in excess of that amount; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(k) The fee for a retailer's license shall be \$500.

(l) In addition to the license fee prescribed by subsection (k):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$600, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$600; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee

and shall cause the tax paid to be placed in the general fund of the township.

(m) The fee for a producer's license shall be \$200.

(n) The license term for a license shall commence on the date the license is issued by the director effective date as specified on the license and shall end two years after that date. The director may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond the date such license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to this section by the same number of days the director has extended the license term.

Sec. 14. K.S.A. 2018 Supp. 41-316 is hereby amended to read as follows: 41-316. Licenses to manufacturers, distributors, microbreweries, microdistilleries, farm wineries, producers and nonbeverage users of alcoholic liquors shall be issued and renewed by the director to qualified applicants upon written application, receipt of bond properly executed and payment in advance of the state registration fee and the license fee.

Sec. 15. K.S.A. 2018 Supp. 41-317 is hereby amended to read as follows: 41-317. (a) Applications for all licenses under this act shall be completed and submitted to the director in a manner prescribed by the director. Each applicant shall submit an application fee of \$30 for each initial application and \$10 for each renewal application to defray the cost of processing the application.

(b) Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:

(1) The full amount of the license fee required to be paid for the kind of license

specified in the application; or

(2) one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.

(c) If the applicant elects to pay only one-half of the license fee pursuant to subsection (b)(2), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this subsection on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The director may, at the director's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this subsection for not more than 30 days beyond the date such payment is originally due.

(d) Any license fee paid by an applicant shall be returned to the applicant if the application is denied.

(e) Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner prescribed by the director.

(f) All fees received by the director pursuant to this section shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(g) Every applicant for a manufacturer's, distributor's, nonbeverage user's, microbrewery, microdistillery, farm winery, retailer's, producer's or special order shipping license

shall file with the application a joint and several bond on a form prescribed by the director and executed by good and sufficient corporate sureties licensed to do business within the state of Kansas to the director, in the following amounts:

- (1) For a manufacturer, \$25,000;
- (2) for a spirits distributor, \$15,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;
- (3) for a beer or wine distributor, \$5,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;
- (4) for a retailer, \$2,000;
- (5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000 for class 3, \$5,000 for class 4 and \$10,000 for class 5;
- (6) for a microbrewery, microdistillery or a farm winery, \$2,000;~~and~~
- (7) for a producer, \$500; and
- ~~(8)~~ for a winery holding a special order shipping license, \$750, unless the winery has already complied with subsection (g)(6).

If a distributor holds or applies for more than one distributor's license, only one bond for all such licenses shall be required, which bond shall be in an amount equal to the highest applicable bond.

(h) All bonds required by this section shall be conditioned on the licensee's compliance with the provisions of this act and payment of all taxes, fees, fines and forfeitures that may be assessed against the licensee.

Sec. 16. K.S.A. 2018 Supp. 41-319 is hereby amended to read as follows: 41-319. (a) Except as provided by subsection (b), within 30 days after an application is filed for a retailer's, microbrewery, microdistillery ~~or~~, farm winery license or producer license and within 20 days after an application is filed for a manufacturer's, distributor's or nonbeverage user's license, the director shall enter an order either denying or granting the license. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been denied. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

(b) In order to complete any national criminal history record check of an applicant who submitted any application after January 31, 2001, and if the applicant is not a resident of the state of Kansas on the date of submission of such application or has not been a resident for at least one year immediately preceding the date of submission of such application the director shall enter an order either denying or granting the license within 90 days after such application is filed. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been denied. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

Sec. 17. K.S.A. 2018 Supp. 41-355 is hereby amended to read as follows: 41-355. (a) Any person engaged in business as a vineyard with not less than 100 vines of sound, ripe grapes or other type of agricultural producer with an annual harvest of 1,000 pounds of other sound, ripe fruits or berries or 100 pounds of honey may apply to the director for ~~an annual vineyard permit~~ and be issued up to two producer licenses.

(b) A producer license shall apply only to the premises described in the application and in the issued license.

~~(c) A vineyard permit producer license shall authorize the sale in the original, unopened container and the serving by the drink of wine on the premises specified in the permit license. A vineyard permit producer license also shall authorize the permit license holder to conduct wine tastings in accordance with K.S.A. 2018 Supp. 41-308d, and amendments thereto, on the premises specified in the permit license. All wine sold or served by the permit license holder shall be produced, in whole or in part, using sound, ripe grapes, fruits, berries or honey grown or produced by the permit license holder and, shall be manufactured by a farm winery and shall be purchased by the license holder from such farm winery.~~

~~(e)(d) Any wine not consumed on the premises shall be disposed of by the permit license holder or, prior to its removal from the property, securely re-sealed and placed in a tamper-proof, transparent bag which that is sealed in a manner that makes it visibly apparent if the bag is subsequently opened.~~

~~(d)(e) Permits issued under this section shall be valid for one year from the date of issuance. If the producer licensee is also licensed as a club or drinking establishment, the producer's license shall allow the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act. If the producer licensee is also licensed as a cereal malt beverage licensee, the producer's license shall allow the sale of cereal malt beverage and beer not exceeding 6% alcohol by volume for consumption on the licensed premises as authorized by the Kansas cereal malt beverage act.~~

~~(e) The annual fee for a vineyard permit shall be \$100.~~

~~(f) The officers, directors, shareholders or managers of a producer licensee shall meet the qualifications of K.S.A. 41-311(a), and amendments thereto.~~

~~(f)~~(g) (1) Each producer licensee shall maintain records of all sales made under the license, including sales of agricultural products to a farm winery and sales to consumers, and maintain records of all purchases of wine manufactured by such farm winery, for at least three years after the date of the sale or purchase.

(2) The records required by this subsection shall be available for inspection by the director, any agent or employee of the director, the secretary or any law enforcement officer.

(3) Each record of a sale or purchase required by this subsection shall be maintained on the premises specified in the license for at least 90 days after such sale or purchase.

(4) Any record of a sale or purchase required by this subsection may be stored electronically and maintained off the premises specified in the license after 90 days have passed since such sale or purchase.

(h) The secretary may adopt rules and regulations as necessary to implement the provisions of this section.

(i) (1) Nothing in this section shall be construed to prohibit a person from possessing alcoholic liquor or cereal malt beverage not purchased from the licensee on the premises licensed pursuant to this section.

(2) Nothing in this section shall prevent a licensee from adopting a policy prohibiting the possession of alcoholic liquor or cereal malt beverage not purchased from the licensee on the licensee's premises licensed pursuant to this section.

~~(g)~~(j) This section shall be a part of and supplemental to the Kansas liquor control act.";

On page 13, in line 1, before "section" by inserting "K.S.A. 41-2703, and amendments thereto, or";

On page 14, in line 39, before "section" by inserting "K.S.A. 41-2703, and amendments

thereto, or";

On page 19, following line 18, by inserting:

"Sec. 21. K.S.A. 2018 Supp. 41-2614 is hereby amended to read as follows: 41-2614.

(a) Except as provided by subsection (c), no public venue, club or drinking establishment shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.

(b) No caterer shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day at an event catered by such caterer.

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

On page 20, following line 34, by inserting:

"Sec. 23. K.S.A. 2018 Supp. 41-2629 is hereby amended to read as follows: 41-2629.

(a) A class B club, drinking establishment, public venue or caterer's license shall be issued for a term not to exceed two years ~~after issuance~~ commencing on the effective date as specified on the license, except as otherwise provided by law, unless sooner suspended or revoked as provided in this act.

(b) The director may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond such date the license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to K.S.A. 41-

2622, and amendments thereto, by the same number of days the director has extended the license term.

(c) A class B club, drinking establishment, public venue or caterer's license shall be purely a personal privilege and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A class B club, drinking establishment, public venue or caterer's license shall not descend by the laws of testate or intestate devolution but shall cease or expire upon the death of the licensee subject to subsection (d).

(d) An executor, administrator or representative of the estate of any deceased holder of a class B club, drinking establishment, public venue or caterer's license, or the trustee of any insolvent or bankrupt class B club, drinking establishment, public venue or caterer's license may continue the licensee's business under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such licensee or after such insolvency or bankruptcy until the expiration of such license, but in no case longer than one year after the death, insolvency or bankruptcy of such licensee.

(e) When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. The secretary shall adopt, in accordance with K.S.A. 41-210, and amendments thereto, rules and regulations providing for the authorization of refunds of one-half of the license fee paid when the licensee does not use such license for the entire second year of the license term as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.";

On page 24, following line 38, by inserting:

"Sec. 27. K.S.A. 41-2644 is hereby amended to read as follows: 41-2644. A license for a drinking ~~establishment/caterer~~ establishment caterer shall allow the licensee all the rights and privileges of a holder of a drinking establishment license and of a licensed caterer, subject to all provisions of law relating to such an establishment or caterer.

Sec. 28. K.S.A. 41-2648 is hereby amended to read as follows: 41-2648. (a) No drinking establishment license, caterer's license or temporary permit shall be effective before July 1, 1987.

(b) On and after July 1, 1987, the director may provide procedures whereby a license for a class B club issued before July 1, 1987, may be converted to a drinking establishment license or a drinking ~~establishment/caterer~~ establishment caterer license if all requirements of this act are met and the licensee pays that portion of the additional license fee, if any, attributable to the remaining unexpired license term.";

On page 26, in line 31, by striking all after the comma; by striking all in line 32; in line 33, by striking all before "are" and inserting "K.S.A. 41-2644 and 41-2648 and K.S.A. 2018 Supp. 41-304, 41-308a, 41-310, 41-316, 41-317, 41-319, 41-347, 41-355, 41-719, 41-2601, 41-2608, 41-2614, 41-2622, 41-2629, 41-2637, 41-2641, 41-2642, 41-2645, 41-2657 and 41-2659";

Also on page 26, in line 36, by striking "April 1, 2019, and";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "to"; by striking all in lines 2 through 6; in line 7, by striking all before the period and inserting "licensure; issuance of temporary permits and producer licenses; designation of official wine grapes of the state; delivery of alcoholic liquor, reporting requirements; serving of samples of alcoholic liquor; sales within a common

consumption area; amending K.S.A. 2016 Supp. 41-102, as amended by section 4 of chapter 56 of the 2017 Session Laws of Kansas, K.S.A. 41-2644 and 41-2648 and K.S.A. 2018 Supp. 41-304, 41-308a, 41-310, 41-316, 41-317, 41-319, 41-355, 41-719, 41-2601, 41-2608, 41-2614, 41-2622, 41-2629, 41-2637, 41-2641, 41-2642 and 41-2659 and repealing the existing sections; also repealing K.S.A. 2018 Supp. 41-347, 41-2645 and 41-2657";

And your committee on conference recommends the adoption of this report.

Conferees on part of House

Conferees on part of Senate