

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2406

By Committee on Federal and State Affairs

2-22

1 AN ACT concerning alcoholic liquor; restricted hours and days of sales;
2 authorizing issuance of cereal malt beverage retailers' licenses to
3 producers; sale in retail liquor stores; relating to the sale of cereal malt
4 beverage in the original package; amending K.S.A. 2020 Supp. 41-712,
5 41-2703, 41-2704 and 41-2911 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 2020 Supp. 41-712 is hereby amended to read as
9 follows: 41-712. (a) Within any city where the days of sale at retail of
10 alcoholic liquor in the original package have not been expanded as
11 provided by K.S.A. 2020 Supp. 41-2911, and amendments thereto, or have
12 been so expanded and subsequently restricted as provided by K.S.A. 2020
13 Supp. 41-2911, and amendments thereto, ~~and within any township where~~
14 ~~the days of sale at retail of alcoholic liquor in the original package have~~
15 ~~not been expanded as provided by K.S.A. 2020 Supp. 41-2911, and~~
16 ~~amendments thereto, or have been so expanded and subsequently restricted~~
17 ~~as provided by K.S.A. 2020 Supp. 41-2911, and amendments thereto;~~ no
18 person shall sell at retail any alcoholic liquor in the original package: (1)
19 On Sunday; (2) on ~~Memorial Day, Independence Day, Labor Day,~~
20 ~~Thanksgiving Day or Christmas Day;~~ or (3) before 9 a.m. or after 11 p.m.
21 on any day when the sale is permitted. The governing body of any city by
22 ordinance may require the closing of premises prior to 11 p.m., but such
23 ordinance shall not require closing prior to 8 p.m.

24 (b) Within any city where the days of sale at retail of alcoholic liquor
25 in the original package have been expanded as provided by K.S.A. 2020
26 Supp. 41-2911, and amendments thereto, and have not been subsequently
27 restricted as provided by K.S.A. 2020 Supp. 41-2911, and amendments
28 thereto, and within any township where the days of sale at retail of
29 alcoholic liquor in the original package have been expanded as provided
30 by K.S.A. 2020 Supp. 41-2911, and amendments thereto, and have not
31 been subsequently restricted as provided by K.S.A. 2020 Supp. 41-2911,
32 and amendments thereto, no person shall sell at retail alcoholic liquor in
33 the original package: (1) On Sunday ~~before 12 noon or after~~ *not earlier*
34 ~~than 10~~ *9 a.m. and not later than 8 p.m.;* (2) on Easter Sunday,
35 Thanksgiving Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m.
36 on any day when the sale is permitted. The governing body of any city by

1 ordinance may require the closing of premises prior to 11 p.m., but such
2 ordinance shall not require closing prior to 8 p.m.

3 Sec. 2. K.S.A. 2020 Supp. 41-2703 is hereby amended to read as
4 follows: 41-2703. (a) After examination of an application for a retailer's
5 license, the board of county commissioners or the director shall, if they
6 approve the same, issue a license to the applicant. The governing body of
7 the city shall, if the applicant is qualified as provided by law, issue a
8 license to such applicant.

9 (b) No retailer's license shall be issued to:

10 (1) A person who is not a resident of the county in which the place of
11 business covered by the license is located, has not been a resident of such
12 county for at least six months or has not been a resident in good faith of
13 the state of Kansas.

14 (2) A person who has not been a resident of this state for at least one
15 year immediately preceding application for a retailer's license.

16 (3) A person who is not of good character and reputation in the
17 community in which the person resides.

18 (4) A person who is not a citizen of the United States.

19 (5) A person who, within two years immediately preceding the date
20 of application approval, has been convicted of, released from incarceration
21 for or released from probation or parole for a felony or any crime
22 involving moral turpitude, drunkenness, driving a motor vehicle while
23 under the influence of intoxicating liquor or violation of any other
24 intoxicating liquor law of any state or of the United States.

25 (6) A partnership, unless all the members of the partnership are
26 otherwise qualified to obtain a license.

27 (7) A corporation, if any manager, officer or director thereof, or any
28 stockholder owning in the aggregate more than 25% of the stock of such
29 corporation, would be ineligible to receive a license hereunder for any
30 reason other than the citizenship and residency requirements.

31 (8) A person whose place of business is conducted by a manager or
32 agent unless the manager or agent possesses all the qualifications of a
33 licensee.

34 (9) A person whose spouse would be ineligible to receive a retailer's
35 license for any reason other than citizenship, residence requirements or
36 age, except that this subsection (b)(9) shall not apply in determining
37 eligibility for a renewal license.

38 (10) A person whose spouse has been convicted of a felony or other
39 crime which would disqualify a person from licensure under this section
40 and such felony or other crime was committed during the time that the
41 spouse held a license under this act.

42 (c) After examination of an application for a retailer's license, the
43 board of county commissioners or the governing body of a city may deny a

1 license to a person, partnership or corporation if any manager, officer or
2 director thereof, or any stockholder owning in the aggregate more than
3 25% of the stock of such corporation; has been an officer, manager,
4 director or a stockholder owning in the aggregate more than 25% of the
5 stock; of a corporation ~~which~~ *that* has:

6 (1) Had a retailer's license revoked under K.S.A. 41-2708, and
7 amendments thereto; or

8 (2) been convicted of a violation of the club and drinking
9 establishment act or the cereal malt beverage laws of this state.

10 (d) *If an applicant has been issued a producer's license pursuant to*
11 *K.S.A. 41-355, and amendments thereto, an application for a retailers'*
12 *license shall be approved by the board of county commissioners or the*
13 *director, subject to the requirements of subsections (b) and (c).*

14 (e) Retailers' licenses shall be issued either on an annual basis or for
15 the calendar year. If such licenses are issued on an annual basis, the board
16 of county commissioners or the governing body of the city shall notify the
17 distributors supplying the county or city on or before April 1 of the year if
18 a retailer's license is not renewed.

19 ~~(e)~~(f) In addition to, and consistent with the requirements of K.S.A.
20 41-2701 et seq., and amendments thereto, the board of county
21 commissioners of any county or the governing body of any city may
22 provide by resolution or ordinance for the issuance of a special event
23 retailers' permit ~~which~~ *that* shall allow the permit holder to offer for sale,
24 sell and serve cereal malt beverage for consumption on unpermitted
25 premises, ~~which~~ *that* may be open to the public, subject to the following:

26 (1) A special event retailers' permit shall specify the premises for
27 which the permit is issued;

28 (2) a special event retailers' permit shall be issued for the duration of
29 the special event, the dates and hours of which shall be specified in the
30 permit;

31 (3) ~~n~~ *not* more than four special event retailers' permits may be
32 issued to any one applicant in a calendar year; and

33 (4) a special event retailers' permit shall not be transferable or
34 assignable.

35 ~~(f)~~(g) A special event retailers' permit holder shall not be subject to
36 the provisions of the beer and cereal malt beverage keg registration act,
37 K.S.A. 41-2901 et seq., and amendments thereto.

38 Sec. 3. K.S.A. 2020 Supp. 41-2704 is hereby amended to read as
39 follows: 41-2704. (a) In addition to and consistent with the requirements
40 of the Kansas cereal malt beverage act, the board of county commissioners
41 of any county or the governing body of any city may prescribe hours of
42 closing, standards of conduct and rules and regulations concerning the
43 moral, sanitary and health conditions of places licensed pursuant to this act

1 and may establish zones within which no such place may be located.

2 (b) Within any city where the days of sale at retail of cereal malt
3 beverage in the original package have not been expanded as provided by
4 K.S.A. 2020 Supp. 41-2911, and amendments thereto, or have been so
5 expanded and subsequently restricted as provided by K.S.A. 2020 Supp.
6 41-2911, and amendments thereto, ~~and within any township where the~~
7 ~~hours and days of sale at retail of cereal malt beverage in the original~~
8 ~~package have not been expanded as provided by K.S.A. 2020 Supp. 41-~~
9 ~~2911, and amendments thereto, or have been so expanded and~~
10 ~~subsequently restricted as provided by K.S.A. 2020 Supp. 41-2911, and~~
11 ~~amendments thereto,~~ no cereal malt beverages or beer containing not more
12 than 6% alcohol by volume may be sold:

13 (1) Between the hours of 12 midnight and 6 a.m.; or

14 (2) on Sunday, except in a place of business which is licensed to sell
15 cereal malt beverage for consumption on the premises, which derives not
16 less than 30% of its gross receipts from the sale of food for consumption
17 on the licensed premises and which is located in a county where such sales
18 on Sunday have been authorized by resolution of the board of county
19 commissioners of the county or in a city where such sales on Sunday have
20 been authorized by ordinance of the governing body of the city.

21 (c) Within any city where the days of sale at retail of cereal malt
22 beverage in the original package have been expanded as provided by
23 K.S.A. 2020 Supp. 41-2911, and amendments thereto, and have not been
24 subsequently restricted as provided in K.S.A. 2020 Supp. 41-2911, and
25 amendments thereto, ~~and within any township where the days of sale at~~
26 ~~retail of cereal malt beverage in the original package have been expanded~~
27 ~~as provided by K.S.A. 2020 Supp. 41-2911, and amendments thereto, and~~
28 ~~have not been subsequently restricted as provided by K.S.A. 2020 Supp.~~
29 ~~41-2911, and amendments thereto,~~ no person shall sell at retail cereal malt
30 beverage or beer containing not more than 6% alcohol by volume:

31 (1) Between the hours of 12 midnight and 6 a.m.;

32 (2) in the original package ~~before 12 noon or after not earlier than 10~~
33 ~~9 a.m. and not later than 8 p.m.~~ on Sunday;

34 (3) on Easter Sunday; or

35 (4) for consumption on the licensed premises on Sunday, except in a
36 place of business which is licensed to sell cereal malt beverage for
37 consumption on the premises, which derives not less than 30% of its gross
38 receipts from the sale of food for consumption on the licensed premises
39 and which is located in a county where such sales on Sunday have been
40 authorized by resolution of the board of county commissioners of the
41 county or in a city where such sales on Sunday have been authorized by
42 ordinance of the governing body of the city.

43 (d) No private rooms or closed booths shall be operated in a place of

1 business, but this provision shall not apply if the licensed premises also are
2 licensed as a club pursuant to the club and drinking establishment act.

3 (e) Each place of business shall be open to the public and to law
4 enforcement officers at all times during business hours, except that a
5 premises licensed as a club pursuant to the club and drinking establishment
6 act shall be open to law enforcement officers and not to the public.

7 (f) Except as otherwise provided by this subsection, no licensee shall
8 permit a person under the legal age for consumption of cereal malt
9 beverage or beer containing not more than 6% alcohol by volume to
10 consume or purchase any cereal malt beverage in or about a place of
11 business. A licensee's employee who is not less than 18 years of age may
12 dispense or sell cereal malt beverage or beer containing not more than 6%
13 alcohol by volume, if:

14 (1) The licensee's place of business is licensed only to sell at retail
15 cereal malt beverage or beer containing not more than 6% alcohol by
16 volume in the original package and not for consumption on the premises;
17 or

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

23 (g) No person shall have any alcoholic liquor, except beer containing
24 not more than 6% alcohol by volume, in such person's possession while in
25 a place of business, unless the premises are currently licensed as a club or
26 drinking establishment pursuant to the club and drinking establishment act.

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

31 Sec. 4. K.S.A. 2020 Supp. 41-2911 is hereby amended to read as
32 follows: 41-2911. (a) (1) The board of county commissioners of any
33 county may, by resolution:

34 (A) Expand the days of sale at retail of cereal malt beverage in the
35 original package to allow such sale within the unincorporated area of the
36 county on any Sunday, except Easter, ~~between the hours of 12 noon and~~
37 ~~not earlier than 10 9 a.m. and not later than 8 p.m. as established in the~~
38 *resolution* and expand the days of sale at retail of alcoholic liquor in the
39 original package, if licensing of such sale of alcoholic liquor is authorized
40 within the unincorporated area of the county, to allow such sale within the
41 unincorporated area of the county on any Sunday, except Easter, ~~between~~
42 ~~the hours of 12 noon and not earlier than 10 9 a.m. and not later than 8~~
43 ~~p.m. and on Memorial Day, Independence Day and Labor Day as~~

1 *established in the resolution; or*

2 (B) restrict the days of sale at retail of cereal malt beverage in the
3 original package to prohibit such sale within the unincorporated area of the
4 county on Sunday and restrict the days of sale at retail of alcoholic liquor
5 in the original package, if licensing of such sale of alcoholic liquor is
6 authorized within the unincorporated area of the county, to prohibit such
7 sale within the unincorporated area of the county on Sunday, ~~Memorial~~
8 ~~Day, Independence Day and Labor Day.~~

9 Such resolution shall be published once, within two weeks after its
10 adoption, in the official county newspaper. Such resolution shall not
11 become effective earlier than 60 days following the date of its publication
12 ~~or November 15, 2005, whichever is later.~~ If, within 60 days following
13 publication of the resolution, a petition requesting that a proposition be
14 submitted for approval by the voters is filed in accordance with subsection
15 (a)(2), such resolution shall not become effective until a proposition is
16 submitted to and approved at an election as provided by this subsection
17 (a).

18 (2) A petition to submit a proposition to the qualified voters of a
19 county pursuant to this subsection (a) shall be filed with the county
20 election officer. The petition shall be signed by qualified voters of the
21 county who reside within the unincorporated area of the county equal in
22 number to not less than 5% of the voters of the county residing within the
23 unincorporated area of the county who voted for the office of president of
24 the United States at the last preceding general election at which such office
25 was elected. The appropriate version of the following shall appear on the
26 petition:

27 (A) If licensing of sale at retail of alcoholic liquor in the original
28 package is not authorized within the unincorporated area of the county, the
29 petition shall read: "We request an election to determine whether sale at
30 retail of cereal malt beverage in the original package shall be (allowed on
31 any Sunday, except Easter, ~~between the hours of 12 noon and not earlier~~
32 ~~than 10 9 a.m. and not later than 8 p.m. as established in the petition)~~
33 (prohibited on Sunday) within the unincorporated area of _____
34 county."

35 (B) If licensing of sale at retail of alcoholic liquor is authorized
36 within the unincorporated area of the county, the petition shall read: "We
37 request an election to determine whether sale at retail of cereal malt
38 beverage in the original package shall be (allowed on any Sunday, except
39 Easter, ~~between the hours of 12 noon and not earlier than 10 9 a.m. and~~
40 ~~not later than 8 p.m. as established in the petition)~~ (prohibited on Sunday)
41 within the unincorporated area of _____ county and whether sale at
42 retail of alcoholic liquor in the original package shall be (allowed on any
43 Sunday, except Easter, ~~between the hours of 12 noon and not earlier than~~

1 ~~10 9 a.m. and not later than 8 p.m. and on Memorial Day, Independence~~
2 ~~Day and Labor Day as established in the petition~~ (prohibited on Sunday;
3 ~~Memorial Day, Independence Day and Labor Day~~) within the
4 unincorporated area of _____ county."

5 (3) Upon submission of a valid petition calling for an election
6 pursuant to this subsection (a), the county commission shall call a special
7 election to be held not later than 45 days after submission of the petition
8 unless a countywide primary or general election is to be held within 90
9 days after submission of the petition, in which case the proposition shall be
10 submitted at such countywide election. Thereupon, the county election
11 officer shall cause the appropriate version of the following proposition to
12 be placed on the ballot in the unincorporated area of the county at such
13 election:

14 (A) If licensing of sale at retail of alcoholic liquor is not authorized
15 within the unincorporated area of the county, the following proposition
16 shall be placed on the ballot: "Within the unincorporated area of
17 _____ county shall sale at retail of cereal malt beverage in the
18 original package be (allowed on any Sunday, except Easter, ~~between the~~
19 ~~hours of 12 noon and not earlier than 10 9 a.m. and not later than 8 p.m.~~
20 ~~as established in the petition~~) (prohibited on Sunday)?"

21 (B) If licensing of sale at retail of alcoholic liquor is authorized
22 within the unincorporated area of the county, the following proposition
23 shall be placed on the ballot: "Within the unincorporated area of _____
24 county shall sale at retail of cereal malt beverage in the original package
25 be (allowed on any Sunday, except Easter, ~~between the hours of 12 noon~~
26 ~~and not earlier than 10 9 a.m. and not later than 8 p.m. as established in~~
27 ~~the petition~~) (prohibited on Sunday) and shall the sale at retail of alcoholic
28 liquor in the original package be (allowed on any Sunday, except Easter,
29 ~~between the hours of 12 noon and not earlier than 10 9 a.m. and not later~~
30 ~~than 8 p.m. and on Memorial Day, Independence Day and Labor Day as~~
31 ~~established in the petition~~) (prohibited on Sunday, ~~Memorial Day,~~
32 ~~Independence Day and Labor Day~~)?"

33 (b) (1) The governing body of any city may, by ordinance:

34 (A) Expand the days of sale at retail of cereal malt beverage in the
35 original package to allow such sale within the city on any Sunday, except
36 Easter, ~~between the hours of 12 noon and not earlier than 10 9 a.m. and~~
37 ~~not later than 8 p.m. as established in the ordinance~~ and expand the days
38 of sale at retail of alcoholic liquor in the original package, if licensing of
39 such sale of alcoholic liquor is authorized within the city, to allow such
40 sale within the city on any Sunday, except Easter, ~~between the hours of 12~~
41 ~~noon and not earlier than 10 9 a.m. and not later than 8 p.m. and on~~
42 ~~Memorial Day, Independence Day and Labor Day as established in the~~
43 ~~ordinance~~; or

1 (B) restrict the days of sale at retail of cereal malt beverage in the
2 original package to prohibit such sale within the city on Sunday and
3 restrict the days of sale at retail of alcoholic liquor in the original package,
4 if licensing of such sale of alcoholic liquor is authorized within the city, to
5 prohibit such sale within the city on Sunday, ~~Memorial Day, Independence~~
6 ~~Day and Labor Day.~~

7 Such ordinance shall be published at least once each week for two
8 consecutive weeks in the official city newspaper. Such ordinance shall not
9 become effective earlier than 60 days following the date of its publication
10 ~~or November 15, 2005, whichever is later.~~ If, within 60 days following
11 publication of the ordinance, a petition requesting that a proposition be
12 submitted for approval by the voters is filed in accordance with subsection
13 (b)(2), such ordinance shall not become effective until a proposition is
14 submitted to and approved at an election as provided by this subsection
15 (b).

16 (2) A petition to submit a proposition to the qualified voters of a city
17 pursuant to this subsection (b) shall be filed with the county election
18 officer. The petition shall be signed by qualified voters of the city equal in
19 number to not less than 5% of the voters of the city who voted for the
20 office of president of the United States at the last preceding general
21 election at which such office was elected. The appropriate version of the
22 following shall appear on the petition:

23 (A) If licensing of sale at retail of alcoholic liquor in the original
24 package is not authorized within the city, the petition shall read: "We
25 request an election to determine whether sale at retail of cereal malt
26 beverage in the original package shall be (allowed on any Sunday, except
27 Easter, ~~between the hours of 12 noon and not earlier than 10 9 a.m. and~~
28 ~~not later than 8 p.m. as established in the petition~~) (prohibited on Sunday)
29 within the city of _____."

30 (B) If licensing of sale at retail of alcoholic liquor is authorized
31 within the city, the petition shall read: "We request an election to
32 determine whether sale at retail of cereal malt beverage in the original
33 package shall be (allowed on any Sunday, except Easter, ~~between the hours~~
34 ~~of 12 noon and not earlier than 10 9 a.m. and not later than 8 p.m. as~~
35 ~~established in the petition~~) (prohibited on Sunday) within the city of
36 _____ and whether sale at retail of alcoholic liquor in the original
37 package shall be (allowed on any Sunday, except Easter, ~~between the hours~~
38 ~~of 12 noon and not earlier than 10 9 a.m. and not later than 8 p.m. and on~~
39 ~~Memorial Day, Independence Day and Labor Day as established in the~~
40 ~~petition~~) (prohibited on Sunday, ~~Memorial Day, Independence Day and~~
41 ~~Labor Day~~) within the city of _____."

42 (3) Upon submission of a valid petition calling for an election
43 pursuant to this subsection (b), the city governing body shall call a special

1 election to be held not later than 45 days after submission of the petition
2 unless a citywide primary or general election is to be held within 90 days
3 after submission of the petition, in which case the proposition shall be
4 submitted at such citywide election. Thereupon, the county election officer
5 shall cause the appropriate version of the following proposition to be
6 placed on the ballot in the city at such election:

7 (A) If licensing of sale at retail of alcoholic liquor is not authorized
8 within the city, the following proposition shall be placed on the ballot:
9 "Within the city of _____ shall sale at retail of cereal malt beverage
10 in the original package be (allowed on any Sunday, except Easter, ~~between~~
11 ~~the hours of 12 noon and not earlier than 10 9 a.m. and not later than 8~~
12 ~~p.m. as established in the petition)~~ (prohibited on Sunday)?"

13 (B) If licensing of sale at retail of alcoholic liquor is authorized
14 within the city, the following proposition shall be placed on the ballot:
15 "Within the city of _____ shall sale at retail of cereal malt beverage in
16 the original package be (allowed on any Sunday, except Easter, ~~between~~
17 ~~the hours of 12 noon and not earlier than 10 9 a.m. and not later than 8~~
18 ~~p.m. as established in the petition)~~ (prohibited on Sunday) and shall the
19 sale at retail of alcoholic liquor in the original package be (allowed on any
20 Sunday, except Easter, ~~between the hours of 12 noon and not earlier than~~
21 ~~10 9 a.m. and not later than 8 p.m. and on Memorial Day, Independence~~
22 ~~Day and Labor Day as established in the petition)~~ (prohibited on Sunday,
23 ~~Memorial Day, Independence Day and Labor Day)?"~~

24 (c) The county election officer shall transmit to the director a copy of
25 the results of an election pursuant to this section.

26 (d) An election provided for by this section shall be called and held in
27 the manner provided by the general bond law.

28 Sec. 5. K.S.A. 2020 Supp. 41-712, 41-2703, 41-2704 and 41-2911 are
29 hereby repealed.

30 Sec. 6. This act shall take effect and be in force from and after its
31 publication in the statute book.