

SENATE BILL No. 257

By Committee on Federal and State Affairs

2-16

1 AN ACT concerning alcoholic beverages; relating to retailers, clubs and
2 drinking establishments; allowing the removal of beer and cereal malt
3 beverage from licensed premises; amending K.S.A. 2020 Supp. 41-308
4 and 41-2653, as amended by section 1 of 2021 Senate Bill No. 14, and
5 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. 41-308 is hereby amended to read as
9 follows: 41-308. (a) Except as provided in K.S.A. 2020 Supp. 41-308d,
10 and amendments thereto, a retailer's license shall allow the licensee to sell
11 and offer for sale at retail and deliver in the original package, as therein
12 prescribed, alcoholic liquor and cereal malt beverage for use or
13 consumption off and away from the premises specified in such license.

14 (b) A retailer's license shall permit sale and delivery of alcoholic
15 liquor and cereal malt beverage only on the licensed premises and shall not
16 permit sale of alcoholic liquor and cereal malt beverage for resale in any
17 form, except that a licensed retailer may:

18 (1) Sell alcoholic liquor and cereal malt beverage to a temporary
19 permit holder for resale by such permit holder; and

20 (2) sell and deliver alcoholic liquor and cereal malt beverage to a
21 caterer or to the licensed premises of a public venue, club or drinking
22 establishment, if such premises are in the county where the retailer's
23 premises are located or in an adjacent county, for resale by such public
24 venue, club, establishment or caterer.

25 (c) A retailer may:

26 (1) Charge a delivery fee for delivery of alcoholic liquor and cereal
27 malt beverage to a public venue, club, drinking establishment or caterer
28 pursuant to subsection (b);

29 (2) sell lottery tickets and shares to the public in accordance with the
30 Kansas lottery act, if the retailer is selected as a lottery retailer;

31 (3) include in the sale of alcoholic liquor and cereal malt beverage
32 any goods included by the manufacturer in packaging with the alcoholic
33 liquor or cereal malt beverage, subject to the approval of the director;

34 (4) distribute to the public, without charge, consumer advertising
35 specialties bearing advertising matter, subject to rules and regulations of
36 the secretary limiting the form and distribution of such specialties so that

1 they are not conditioned on or an inducement to the purchase of alcoholic
2 liquor or cereal malt beverage;

3 (5) store alcoholic liquor and cereal malt beverage in refrigerators,
4 cold storage units, ice boxes or other cooling devices, and the licensee may
5 sell such alcoholic liquor and cereal malt beverage to consumers in a
6 chilled condition; ~~and~~

7 (6) sell any other good or service on the licensed premises, except
8 that the gross sales of other goods and services, excluding fees derived
9 from the sale of lottery tickets and revenues from sales of cigarettes and
10 tobacco products, shall not exceed 20% of the retailer's total gross sales;
11 *and*

12 (7) *sell containers of beer, domestic beer and cereal malt beverage*
13 *that are sold on the licensed premises to consumers and served in*
14 *refillable and sealable containers for consumption off the licensed*
15 *premises if such containers:*

16 (A) *Contain between 32 and 64 fluid ounces; and*

17 (B) *have a label affixed that clearly indicates the licensee's name and*
18 *the type of alcoholic beverage contained in such container.*

19 (d) All alcoholic liquor, cereal malt beverage and nonalcoholic malt
20 beverage sold by a holder of a retail license shall be subject to the liquor
21 enforcement tax imposed by K.S.A. 79-4101, and amendments thereto.

22 Sec. 2. K.S.A. 2020 Supp. 41-2653, as amended by section 1 of 2021
23 Senate Bill No. 14, is hereby amended to read as follows: 41-2653. (a) In
24 addition to the rights of a licensee pursuant to provisions of K.S.A. 41-
25 2637, 41-2641 or 41-2642, and amendments thereto, a class A club license,
26 class B club license or drinking establishment license shall allow the
27 licensee to allow legal patrons of the club or drinking establishment to
28 remove *alcoholic liquor* from the licensed premises one or more opened
29 containers of alcoholic liquor *from the licensed premises*, subject to the
30 following conditions:

31 (1) It must be legal for the licensee to sell the alcoholic liquor in its
32 original container;

33 (2) the alcoholic liquor must be in its original container;

34 (3) each container of alcoholic liquor must have been purchased by a
35 patron and the alcoholic liquor in each container must have been partially
36 consumed on the licensed premises;

37 (4) the licensee or the licensee's employee must provide the patron
38 with a dated receipt for the unfinished container or containers of alcoholic
39 liquor; and

40 (5) before the container of alcoholic liquor is removed from the
41 licensed premises, the licensee or the licensee's employee must securely
42 reseal each container, place the container in a tamper-proof, transparent
43 bag which is sealed in a manner that makes it visibly apparent if the bag is

1 subsequently tampered with or opened.

2 (b) (1) In addition to the rights of a licensee pursuant to provisions of
3 K.S.A. 41-2637, 41-2641 or 41-2642, and amendments thereto, and the
4 provisions of subsection (a), a class A club license, class B club license or
5 drinking establishment license shall allow the licensee to allow legal
6 patrons of the club or drinking establishment to remove from the licensed
7 premises one or more containers of alcoholic liquor that is not in the
8 original container, subject to the following conditions:

9 (A) It must be legal for the licensee to sell the alcoholic liquor;

10 (B) each container of alcoholic liquor must have been purchased by a
11 patron on the licensed premises;

12 (C) the licensee or the licensee's employee must provide the patron
13 with a dated receipt for the alcoholic liquor; and

14 (D) before the container of alcoholic liquor is removed from the
15 licensed premises, the licensee or the licensee's employee must place the
16 container in a transparent bag that is sealed in a manner that makes it
17 visibly apparent if the bag is subsequently tampered with or opened.

18 (2) The provisions of this subsection shall expire on March 31, 2021.

19 (c) *A patron may remove one or more containers of beer, domestic
20 beer and cereal malt beverage, as those terms are defined in K.S.A. 41-
21 102, and amendments thereto, that are sold on the licensed premises to
22 consumers and served in refillable and sealable containers for
23 consumption off the licensed premises if such containers:*

24 (1) *Contain between 32 and 64 fluid ounces;*

25 (2) *have a label affixed that clearly indicates the licensee's name and
26 the type of alcoholic beverage contained in such container; and*

27 (3) *are not sold or removed from the premises after 11:00 p.m.*

28 (d) *All alcoholic liquor, cereal malt beverage and nonalcoholic malt
29 beverage sold by a licensee shall be subject to the tax imposed by K.S.A.
30 79-41a02, and amendments thereto.*

31 (e) This section shall be a part of and supplemental to the club and
32 drinking establishment act.

33 Sec. 3. K.S.A. 2020 Supp. 41-308 and 41-2653, as amended by
34 section 1 of 2021 Senate Bill No. 14, are hereby repealed.

35 Sec. 4. This act shall take effect and be in force from and after its
36 publication in the statute book.