

HOUSE BILL No. 2059

By Committee on Federal and State Affairs

1-18

1 AN ACT concerning alcoholic beverages; *relating to spirits, wine and*
2 *beer distributors; regulating samples*; amending the common
3 consumption area law to permit rather than require roads be blocked
4 and allowing designation of such areas by signage; amending K.S.A.
5 *41-306, 41-306a, 41-307 and 41-2659* and repealing the existing
6 section sections.

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

9 *Section 1. K.S.A. 41-306 is hereby amended to read as follows: 41-*
10 *306. A spirits distributor's license, shall allow:*

11 *(a) The wholesale purchase, importation and storage of spirits, but*
12 *all such spirits so purchased or imported which are manufactured in the*
13 *United States shall be purchased from the primary American source of*
14 *supply or from another licensed spirits distributor, except that a licensed*
15 *spirits distributor may purchase confiscated spirits at a sheriff's sale.*

16 *(b) The sale of spirits to:*

17 *(1) Spirits distributors licensed in this state;*

18 *(2) retailers licensed in this state, except that such distributor shall*
19 *sell a brand of spirits only to those retailers whose licensed premises are*
20 *located in the geographic territory within which such distributor is*
21 *authorized to sell such brand, as designated in the notice or notices filed*
22 *with the director pursuant to K.S.A. 41-410, and amendments thereto;*
23 *and*

24 *(3) such persons located outside such territory or outside this state*
25 *as permitted by law.*

26 *(c) The purchase of spirits in barrels, casks or other bulk*
27 *containers and the bottling thereof before resale, but all bottles or*
28 *containers filled with such spirits shall be sealed, labeled and otherwise*
29 *made to comply with all laws and rules and regulations governing the*
30 *preparation and bottling of spirits by manufacturers and with all federal*
31 *rules, regulations and laws.*

32 *(d) The storage and delivery to a retailer licensed under the Kansas*
33 *liquor control act or a retailer licensed under K.S.A. 41-2702, and*
34 *amendments thereto, on the distributor's licensed premises, of alcoholic*

1 *liquor or cereal malt beverage of another licensed distributor authorized*
2 *by law to sell such alcoholic liquor or cereal malt beverage to such*
3 *retailer, in accordance with an agreement entered into with such other*
4 *distributor and approved by the director.*

5 *(e) The storage and delivery to a public venue licensed under the*
6 *club and drinking establishment act of alcoholic liquor purchased by the*
7 *public venue licensee from a retailer authorized by law to sell such*
8 *alcoholic liquor to such public venue licensee.*

9 *(f) The withdrawal of spirits from such licensee's inventory for use*
10 *as samples in the course of the business of the distributor or at industry*
11 *seminars. Samples may only be provided to persons licensed as a*
12 *distributor or a retailer under the Kansas liquor control act, and such*
13 *person's employees or to persons licensed under the club and drinking*
14 *establishment act and such persons' employees. Samples may be served*
15 *on the licensed premises of the licensee, or on the premises of a licensed*
16 *retailer, provided except that no sample shall be served on that portion of*
17 *the premises of a licensed retailer that is open to the public and where*
18 *sales of alcoholic liquor at retail are made. Only products that have not*
19 *been purchased from the distributor licensee by the retailer or club and*
20 *drinking establishment act licensee within the previous 12 months may be*
21 *provided for sampling pursuant to this subsection. No sample shall be*
22 *provided to any minor. Nothing in this subsection shall be construed to*
23 *permit the licensee to sell any alcoholic liquor for consumption on the*
24 *premises. The withdrawal of spirits shall be subject to the tax imposed by*
25 *K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable*
26 *current posted bottle or case price. For purposes of providing samples*
27 *pursuant to this subsection other than at industry seminars or to the*
28 *licensee's employees, the term "sample" shall have the same meaning as*
29 *that term is defined in K.S.A. 41-2601, and amendments thereto this*
30 *subsection, "sample" means not more than three liters of distilled spirits.*

31 *Sec. 2. K.S.A. 41-306a is hereby amended to read as follows: 41-*
32 *306a. A wine distributor's license shall allow:*

33 *(a) The wholesale purchase, importation and storage of wine, but*
34 *all wine so purchased or imported which is manufactured in the United*
35 *States shall be purchased from the primary American source of supply*
36 *or from another licensed wine distributor, except that a licensed wine*
37 *distributor may purchase confiscated wine at a sheriff's sale.*

38 *(b) The sale of wine to:*

39 *(1) Wine distributors licensed in this state;*

40 *(2) retailers licensed in this state, except that such distributor shall*
41 *sell a brand of wine only to those retailers whose licensed premises are*
42 *located in the geographic territory within which such distributor is*
43 *authorized to sell such brand, as designated in the notice or notices filed*

1 *with the director pursuant to K.S.A. 41-410, and amendments thereto;*
2 *and*

3 *(3) such persons located outside such territory or outside this state*
4 *as permitted by law.*

5 *(c) The sale of wine, but only in barrels, casks and other bulk*
6 *containers, to:*

7 *(1) Licensed caterers; and*

8 *(2) public venues, clubs and drinking establishments licensed in*
9 *this state, except that such distributor shall sell a brand of wine only to*
10 *such public venues, clubs and drinking establishments the licensed*
11 *premises of which are located in the geographic territory within which*
12 *such distributor is authorized to sell such brand, as designated in the*
13 *notice or notices filed with the director pursuant to K.S.A. 41-410, and*
14 *amendments thereto.*

15 *(d) The purchase of wine in barrels, casks or other bulk containers*
16 *and the bottling thereof before resale, but all bottles or containers filled*
17 *with such wine shall be sealed, labeled and otherwise made to comply*
18 *with all laws and rules and regulations governing the preparation and*
19 *bottling of wine by manufacturers and with all federal rules, regulations*
20 *and laws.*

21 *(e) The storage and delivery to a retailer licensed under the Kansas*
22 *liquor control act or a retailer licensed under K.S.A. 41-2702, and*
23 *amendments thereto, on the distributor's licensed premises, of alcoholic*
24 *liquor or cereal malt beverage of another licensed distributor authorized*
25 *by law to sell such alcoholic liquor or cereal malt beverage to such*
26 *retailer, in accordance with an agreement entered into with such other*
27 *distributor and approved by the director.*

28 *(f) The withdrawal of wine from such licensee's inventory for use*
29 *as samples in the course of the business of the distributor or at industry*
30 *seminars. Samples may only be provided to persons licensed as a*
31 *distributor or a retailer under the Kansas liquor control act, and such*
32 *person's employees, or to persons licensed under the club and drinking*
33 *establishment act, and such person's employees. Samples may be served*
34 *on the licensed premises of the licensee, or on the premises of a licensed*
35 *retailer, provided no sample shall be served on that portion of the*
36 *premises of a licensed retailer that is open to the public and where sales*
37 *of alcoholic liquor at retail are made. Samples may be served on the*
38 *premises of a licensee holding a license issued under the club and*
39 *drinking establishment act, provided no sample shall be served on that*
40 *portion of the premises that is open to the public and where sales of*
41 *alcoholic liquor are made. Only products that have not been purchased*
42 *from the distributor licensee by the retailer or club and drinking*
43 *establishment licensee within the previous 12 months may be provided for*

1 *sampling pursuant to this subsection. No sample shall be provided to any*
2 *minor. Nothing in this subsection shall be construed to permit the*
3 *licensee to sell any alcoholic liquor for consumption on the premises.*
4 *The withdrawal of wine shall be subject to the tax imposed by K.S.A. 79-*
5 *4101 et seq., and amendments thereto, based on the applicable current*
6 *posted bottle or case price. For purposes of providing samples pursuant to*
7 *this subsection other than at industry seminars or to the licensee's*
8 *employees, the term of this subsection, "sample" shall have the same*
9 *meaning as that term is defined in K.S.A. 41-2601, and amendments*
10 *thereto means not more than three liters of any brand of wine.*

11 *(g) This section shall be a part of and supplemental to the Kansas*
12 *liquor control act.*

13 *Sec. 3. K.S.A. 41-307 is hereby amended to read as follows: 41-307.*
14 *A beer distributor's license shall allow:*

15 *(a) The wholesale purchase, importation and storage of beer.*

16 *(b) The sale of beer to:*

17 *(1) Licensed caterers;*

18 *(2) beer distributors licensed in this state;*

19 *(3) retailers, public venues, clubs and drinking establishments,*
20 *licensed in this state, except that such distributor shall sell a brand of*
21 *beer only to those retailers, public venues, clubs and drinking*
22 *establishments of which the licensed premises are located in the*
23 *geographic territory within which such distributor is authorized to sell*
24 *such brand, as designated in the notice or notices filed with the director*
25 *pursuant to K.S.A. 41-410, and amendments thereto; and*

26 *(4) such persons located outside such territory or outside this state*
27 *as permitted by law.*

28 *(c) The sale of cereal malt beverage to:*

29 *(1) Beer distributors licensed in this state;*

30 *(2) clubs and drinking establishments, licensed in this state, and*
31 *retailers licensed under K.S.A. 41-2702, and amendments thereto, except*
32 *that such distributor shall sell a brand of cereal malt beverage only to*
33 *those such clubs, drinking establishments and retailers of which the*
34 *licensed premises are located in the geographic territory within which*
35 *such distributor is authorized to sell such brand, as designated in the*
36 *notice or notices filed with the director pursuant to K.S.A. 41-410, and*
37 *amendments thereto;*

38 *(3) retailers; and*

39 *(4) such persons located outside such territory or outside this state*
40 *as permitted by law.*

41 *(d) The sale of beer containing not more than 6% alcohol by*
42 *volume to cereal malt beverage retailers licensed pursuant to K.S.A. 41-*
43 *2702, and amendments thereto.*

1 (e) *The purchase of cereal malt beverage in kegs or other bulk*
2 *containers and the bottling or canning thereof in accordance with law.*

3 (f) *The storage and delivery to a retailer licensed under the Kansas*
4 *liquor control act or a retailer licensed under K.S.A. 41-2702, and*
5 *amendments thereto, on the distributor's licensed premises, of alcoholic*
6 *liquor or cereal malt beverage of another licensed distributor authorized*
7 *by law to sell such alcoholic liquor or cereal malt beverage to such*
8 *retailer, in accordance with an agreement entered into with such other*
9 *distributor and approved by the director.*

10 (g) *The storage and delivery, with proper invoicing in accordance*
11 *with rules and regulations adopted by the secretary, on the premises of a*
12 *public venue licensee, of beer sold to or available for purchase by the*
13 *public venue during an event.*

14 (h) *The withdrawal of beer or cereal malt beverage from such*
15 *licensee's inventory for use as samples in the course of the business of*
16 *the distributor or at industry seminars. Samples may only be provided to*
17 *persons licensed as a distributor or a retailer under the Kansas liquor*
18 *control act, and such person's employees, or to persons licensed under*
19 *the club and drinking establishment act, and such person's employees.*
20 *Samples may be served on the licensed premises of the licensee, or on*
21 *the premises of a licensed retailer, provided no sample shall be served on*
22 *that portion of the premises of a licensed retailer that is open to the*
23 *public and where sales of alcoholic liquor at retail are made. Samples*
24 *may be served on the premises of a licensee holding a license issued*
25 *under the club and drinking establishment act, provided no sample shall*
26 *be served on that portion of the premises that is open to the public and*
27 *where sales of alcoholic liquor are made. Only products that have not*
28 *been purchased from the distributor licensee by the retailer or club and*
29 *drinking establishment act licensee within the previous 12 months may be*
30 *provided for sampling pursuant to this subsection. No sample shall be*
31 *provided to any minor. Nothing in this subsection shall be construed to*
32 *permit the licensee to sell any alcoholic liquor for consumption on the*
33 *premises. The withdrawal of beer or cereal malt beverage shall be*
34 *subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments*
35 *thereto, based on the applicable current posted bottle or case price. For*
36 *purposes of providing samples pursuant to this subsection other than at*
37 *industry seminars or to the licensee's employees, the term this subsection,*
38 *"sample" shall have the same meaning as that term is defined in K.S.A.*
39 *41-2601, and amendments thereto means not more than three gallons of*
40 *any brand of beer or cereal malt beverage.*

41 ~~Section 1.~~ **Sec. 4. On and after July 1, 2023,** K.S.A. 41-2659 is
42 hereby amended to read as follows: 41-2659. (a) (1) A city or a county
43 may establish one or more common consumption areas within the limits of

1 the city or within the unincorporated portion of the county, as applicable,
2 by ordinance or resolution, respectively, and authorize the possession and
3 consumption of alcoholic liquor or cereal malt beverage within the
4 common consumption area. The ordinance or resolution shall designate the
5 boundaries of any common consumption area and prescribe the times
6 during which alcoholic liquor or cereal malt beverage may be consumed
7 therein. The ordinance or resolution ~~shall~~ *may* require that any public street
8 or roadway that lies within a common consumption area ~~shall~~ be blocked
9 from motorized traffic during the hours in which alcoholic liquor or cereal
10 malt beverage is consumed.

11 (2) The city or county shall immediately notify the director of the
12 division of alcoholic beverage control of the establishment of a common
13 consumption area and submit a copy of the ordinance or resolution along
14 with such notice.

15 (b) A common consumption area permit shall allow the consumption
16 of alcoholic liquor or cereal malt beverage in any area designated by such
17 permit. The director may issue common consumption area permits to the
18 city or county or any one person who shall be a resident of Kansas or an
19 organization that has its principal place of business in Kansas and that has
20 been approved by the respective city or county, in accordance with rules
21 and regulations adopted by the secretary of revenue.

22 (c) Applications for common consumption area permits shall be
23 submitted to the director, subject to the following:

24 (1) A copy of any ordinance or resolution promulgated in accordance
25 with subsection (a) shall accompany any application for a common
26 consumption area permit.

27 (2) Each application shall be accompanied by a non-refundable
28 permit fee of \$100. All permit fees collected by the director pursuant to
29 this section shall be remitted to the state treasurer in accordance with the
30 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
31 each such remittance, the state treasurer shall deposit the entire amount in
32 the state treasury to the credit of the state general fund.

33 (3) A common consumption area permit shall be issued for a period
34 of not to exceed one year. A common consumption area permit shall not be
35 transferable or assignable.

36 (d) Any licensee immediately adjacent to, or located within a
37 common consumption area may request that the licensee's licensed
38 premises participate in the common consumption area for the duration of
39 the common consumption area permit. Such a request shall be made upon
40 forms prescribed by the director.

41 (e) (1) Any licensee who has requested and received permission to
42 participate in the common consumption area may allow its legal patrons to
43 remove alcoholic liquor or cereal malt beverage purchased from the

1 licensee into the premises described by the common consumption area
2 permit. All alcoholic liquor and cereal malt beverage removed from a
3 licensed premises in such fashion shall be served in a container that
4 displays the licensee's trade name or logo or other identifying mark that is
5 unique to the licensee.

6 (2) In addition to their licensed premises, one or more licensees that
7 have requested and received permission to participate in a common
8 consumption area may offer for sale, sell and serve alcoholic liquor or
9 cereal malt beverage for consumption from one non-contiguous service
10 area within the common consumption area, as designated and approved by
11 the common consumption area permit holder. The licensee shall
12 prominently display a copy of its drinking establishment license and the
13 approval of the common consumption area permit holder at its non-
14 contiguous service area.

15 (f) (1) Each licensee within a common consumption area shall be
16 liable for violations of all liquor laws governing the sale and consumption
17 of alcoholic liquor or cereal malt beverage that occur on the licensee's
18 premises.

19 (2) Each common consumption area permit holder shall be liable for
20 violations that occur off the licensee's premises, but within the common
21 consumption area identified in the permit. No permit holder shall permit
22 any person to remove any open container of alcoholic liquor or cereal malt
23 beverage from the boundaries of the common consumption area.

24 (g) (1) For the purposes of this section, "common consumption area"
25 means a defined indoor or outdoor area not otherwise subject to a license
26 issued pursuant to the Kansas liquor control act or the club and drinking
27 establishment act where the possession and consumption of alcoholic
28 liquor or cereal malt beverage is allowed pursuant to a common
29 consumption area permit.

30 (2) The boundaries of any common consumption area must be clearly
31 marked using a physical barrier ~~or~~, or any apparent line of demarcation ~~or~~
32 ~~other appropriate signage~~. **Every common consumption area shall have**
33 **signs conspicuously posted identifying the boundaries of such area in a**
34 **size and manner that provides notice to persons entering or leaving**
35 **the area.**

36 (h) The secretary shall adopt rules and regulations to implement this
37 section.

38 (i) This section shall be a part of and supplemental to the club and
39 drinking establishment act.

40 **Sec. 5. K.S.A. 41-306, 41-306a and 41-307 are hereby repealed.**

41 ~~Sec. 2.~~ **6. On and after July 1, 2023, K.S.A. 41-2659 is hereby**
42 **repealed.**

43 ~~Sec. 3.~~ **7. This act shall take effect and be in force from and after its**

- 1 publication in the ~~statute book~~ ***Kansas register***.