

**SENATE BILL No. 288**

By Committee on Federal and State Affairs

1-17

1 AN ACT concerning alcoholic beverages; relating to sales of alcoholic  
2 liquor or cereal malt beverage by the drink; amending K.S.A. 41-2640  
3 and K.S.A. 2011 Supp. 41-2601 and repealing the existing sections.  
4

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

6 Section 1. K.S.A. 2011 Supp. 41-2601 is hereby amended to read as  
7 follows: 41-2601. As used in the club and drinking establishment act:

8 (a) The following terms shall have the meanings provided by K.S.A.  
9 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3)  
10 "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

11 (b) "Beneficial interest" shall not include any interest a person may  
12 have as owner, operator, lessee or franchise holder of a licensed hotel or  
13 motel on the premises of which a club or drinking establishment is located.

14 (c) "Caterer" means an individual, partnership or corporation which  
15 sells alcoholic liquor by the individual drink, and provides services related  
16 to the serving thereof, on unlicensed premises which may be open to the  
17 public, but does not include a holder of a temporary permit, selling  
18 alcoholic liquor in accordance with the terms of such permit.

19 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-  
20 2701, and amendments thereto.

21 (e) "Class A club" means a premises which is owned or leased by a  
22 corporation, partnership, business trust or association and which is  
23 operated thereby as a *bona fide* nonprofit social, fraternal or war veterans'  
24 club, as determined by the director, for the exclusive use of the corporate  
25 stockholders, partners, trust beneficiaries or associates (hereinafter referred  
26 to as members) and their families and guests accompanying them.

27 (f) "Class B club" means a premises operated for profit by a  
28 corporation, partnership or individual, to which members of such club may  
29 resort for the consumption of food or alcoholic beverages and for  
30 entertainment.

31 (g) "Club" means a class A or class B club.

32 ~~(h) "Minibar" means a closed cabinet, whether nonrefrigerated or~~  
33 ~~wholly or partially refrigerated, access to the interior of which is restricted~~  
34 ~~by means of a locking device which requires the use of a key, magnetic~~  
35 ~~card or similar device.~~

36 (†) (h) "Drinking establishment" means premises which may be open

1 to the general public, where alcoholic liquor by the individual drink is  
2 sold.

3 ~~(j)~~ (i) "Food" means any raw, cooked or processed edible substance or  
4 ingredient, other than alcoholic liquor or cereal malt beverage, used or  
5 intended for use or for sale, in whole or in part, for human consumption.

6 ~~(k)~~ (j) "Food service establishment" has the meaning provided by  
7 K.S.A. 36-501, and amendments thereto.

8 ~~(l)~~ (k) "Hotel" has the meaning provided by K.S.A. 36-501, and  
9 amendments thereto.

10 (l) *"Individual drink" means an individual serving of a beverage*  
11 *containing alcoholic liquor or cereal malt beverage.*

12 (m) *"Individual serving" means a beverage containing alcoholic*  
13 *liquor or cereal malt beverage served to an individual for consumption by*  
14 *such individual or another individual, but which is not intended to be*  
15 *consumed by two or more individuals. The term "individual serving"*  
16 *includes beverages containing not more than: (1) Eight ounces of wine;*  
17 *(2) thirty-two ounces of beer or cereal malt beverage; or (3) four ounces*  
18 *of a single spirit or a combination of spirits.*

19 (n) *"Minibar" means a closed cabinet, whether nonrefrigerated or*  
20 *wholly or partially refrigerated, access to the interior of which is*  
21 *restricted by means of a locking device which requires the use of a key,*  
22 *magnetic card or similar device.*

23 ~~(o)~~ (o) "Minor" means a person under 21 years of age.

24 ~~(p)~~ (p) "Morals charge" means a charge involving prostitution;  
25 procuring any person; soliciting of a child under 18 years of age for any  
26 immoral act involving sex; possession or sale of narcotics, marijuana,  
27 amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation;  
28 adultery; bigamy; or a crime against nature.

29 ~~(q)~~ (q) "Municipal corporation" means the governing body of any  
30 county or city.

31 ~~(r)~~ (r) "Restaurant" means:

32 (1) In the case of a club, a licensed food service establishment which,  
33 as determined by the director, derives from sales of food for consumption  
34 on the licensed club premises not less than 50% of its gross receipts from  
35 all sales of food and beverages on such premises in a 12-month period;

36 (2) in the case of a drinking establishment subject to a food sales  
37 requirement under K.S.A. 41-2642, and amendments thereto, a licensed  
38 food service establishment which, as determined by the director, derives  
39 from sales of food for consumption on the licensed drinking establishment  
40 premises not less than 30% of its gross receipts from all sales of food and  
41 beverages on such premises in a 12-month period; and

42 (3) in the case of a drinking establishment subject to no food sales  
43 requirement under K.S.A. 41-2642, and amendments thereto, a licensed

1 food service establishment.

2 ~~(q)~~ (s) "RV resort" means premises where a place to park recreational  
3 vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered  
4 for pay, primarily to transient guests, for overnight or longer use while  
5 such recreational vehicles are used as sleeping or living accommodations.

6 ~~(r)~~ (t) "Secretary" means the secretary of revenue.

7 ~~(s)~~ (u) "Temporary permit" means a temporary permit issued pursuant  
8 to K.S.A. 41-2645, and amendments thereto.

9 Sec. 2. K.S.A. 41-2640 is hereby amended to read as follows: 41-  
10 2640. (a) No club, drinking establishment, caterer or holder of a temporary  
11 permit, nor any person acting as an employee or agent thereof, shall:

12 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in  
13 any form to any person;

14 (2) offer or serve to any person ~~a~~ *an individual* drink at a price that is  
15 less than the acquisition cost of the *individual* drink to the licensee or  
16 permit holder;

17 (3) sell, offer to sell or serve to any person an unlimited number of  
18 *individual* drinks during any set period of time for a fixed price, except at  
19 private functions not open to the general public or to the general  
20 membership of a club;

21 (4) sell, offer to sell or serve any *individual* drink to any person at any  
22 time at a price less than that charged all other purchasers of *individual*  
23 drinks on that day;

24 ~~(5) increase the volume of alcoholic liquor contained in a drink or the~~  
25 ~~size of a drink of cereal malt beverage without increasing proportionately~~  
26 ~~the price regularly charged for the drink on that day;~~

27 ~~(6)~~ (5) encourage or permit, on the licensed premises, any game or  
28 contest which involves drinking alcoholic liquor or cereal malt beverage or  
29 the awarding of *individual* drinks as prizes; or

30 ~~(7)~~ (6) advertise or promote in any way, whether on or off the  
31 licensed premises, any of the practices prohibited under subsections (a)(1)  
32 through ~~(6)~~ (5).

33 ~~(b) Nothing in subsection (a) shall be construed to prohibit~~ A club,  
34 drinking establishment, caterer or holder of a temporary permit ~~from~~ *may*:

35 (1) ~~Offering~~ *Offer* free food or entertainment at any time; ~~or~~

36 (2) ~~selling or delivering~~ *sell or deliver* wine by the bottle or carafe;  
37 *or*

38 (3) *sell or serve beer or cereal malt beverage in a pitcher capable of*  
39 *containing not more than 64 fluid ounces.*

40 (c) Violation of any provision of this section is a misdemeanor  
41 punishable as provided by K.S.A. 41-2633, and amendments thereto.

42 (d) Violation of any provision of this section shall be grounds for  
43 suspension or revocation of the licensee's license as provided by K.S.A.

1 41-2609, and amendments thereto, and for imposition of a civil fine on the  
2 licensee or temporary permit holder as provided by K.S.A. 41-2633a, and  
3 amendments thereto.

4 (e) Every licensed club and drinking establishment shall make  
5 available at any time upon request a price list showing the club's or  
6 drinking establishment's current prices per *individual* drink for all  
7 *individual* drinks.

8 ~~(f) As used in this section, "drink" means an individual serving of any~~  
9 ~~beverage containing alcoholic liquor or an individual serving of cereal-~~  
10 ~~malt beverage.~~

11 Sec. 3. K.S.A. 41-2640 and K.S.A. 2011 Supp. 41-2601 are hereby  
12 repealed.

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

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