

**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 41-2722** and K.S.A. 2011 Supp. 41-2601 and repealing the existing  
4 sections.

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

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

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

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

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

20 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-  
21 2701, and amendments thereto.

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

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

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

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

1       (†) (h) "Drinking establishment" means premises which may be open  
2 to the general public, where alcoholic liquor by the individual drink is  
3 sold.

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

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

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

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

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

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

24       (‡) (n) "Minor" means a person under 21 years of age.

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

30       (‡) (p) "Municipal corporation" means the governing body of any  
31 county or city.

32       (‡) (q) "Restaurant" means:

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

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

43       (3) in the case of a drinking establishment subject to no food sales

1 requirement under K.S.A. 41-2642, and amendments thereto, a licensed  
2 food service establishment.

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

8 ~~(t)~~ ~~(u)~~ **(s)** "Secretary" means the secretary of revenue.

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

11 Sec. 2. K.S.A. 41-2640 is hereby amended to read as follows: 41-  
12 2640. (a) No club, drinking establishment, caterer or holder of a temporary  
13 permit, nor any person acting as an employee or agent thereof, shall:

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

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

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

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

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

29 ~~(6)~~ ~~(5)~~ **(4)** encourage or permit, on the licensed premises, any game or  
30 contest which involves drinking alcoholic liquor or cereal malt beverage or  
31 the awarding of *individual* drinks as prizes; or

32 ~~(7)~~ ~~(6)~~ **(5)** advertise or promote in any way, whether on or off the  
33 licensed premises, any of the practices prohibited under subsections (a)(1)  
34 through ~~(6)~~ ~~(5)~~ **(4)**.

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

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

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

40 (3) *sell, offer to sell and serve individual drinks at different prices*  
41 *throughout any day; or*

42 (4) *sell or serve beer or cereal malt beverage in a pitcher capable of*  
43 *containing not more than 64 fluid ounces.*

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

3 (d) Violation of any provision of this section shall be grounds for  
4 suspension or revocation of the licensee's license as provided by K.S.A.  
5 41-2609, and amendments thereto, and for imposition of a civil fine on the  
6 licensee or temporary permit holder as provided by K.S.A. 41-2633a, and  
7 amendments thereto.

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

12 ~~(f) As used in this section, "drink" means an individual serving of any  
13 beverage containing alcoholic liquor or an individual serving of cereal  
14 malt beverage.~~

15 ***Sec. 3. K.S.A. 41-2722 is hereby amended to read as follows: 41-  
16 2722. (a) No retailer, or employee or agent of a retailer, licensed to sell  
17 cereal malt beverage for consumption on the licensed premises shall:***

18 ***(1) Offer or serve any free cereal malt beverage to any person;***

19 ***(2) offer or serve to any person a drink at a price that is less than  
20 the acquisition cost of the drink to the licensee;***

21 ***(3) sell, offer to sell or serve to any person an unlimited number of  
22 drinks during any set period of time for a fixed price, except at private  
23 functions not open to the general public;***

24 ***(4) sell, offer to sell or serve any drink to any person at any time at a  
25 price less than that charged the general public on that day, except at private  
26 functions not open to the general public;***

27 ~~***(5) increase the size of a drink of cereal malt beverage without  
28 increasing proportionately the price regularly charged for the drink on that  
29 day;***~~

30 ~~***(6) encourage or permit, on the licensed premises, any game or  
31 contest which involves drinking cereal malt beverage or the awarding of  
32 drinks as prizes; or***~~

33 ~~***(7) (5) advertise or promote in any way, whether on or off the  
34 licensed premises, any of the practices prohibited under subsections (a)  
35 (1) through (6) (4).***~~

36 ~~***(b) Nothing in subsection (a) shall be construed to prohibit A retailer  
37 from offering may:***~~

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

39 ~~***(2) sell, offer to sell and serve individual drinks at different prices  
40 throughout any day; or***~~

41 ~~***(3) sell or serve cereal malt beverage in a pitcher capable of  
42 containing not more than 64 fluid ounces.***~~

43 ***(c) Violation of any provisions of this section is a misdemeanor***

1 *punishable as provided by K.S.A. 41-2711, and amendments thereto.*

2 *(d) Violation of any provision of this act shall be grounds for*  
3 *suspension or revocation of the retailer's license as provided by K.S.A.*  
4 *41-2708, and amendments thereto.*

5 *(e) Every licensee subject to the provisions of this section shall*  
6 *make available at any time upon request a price list showing the*  
7 *licensee's current prices for all cereal malt beverages.*

8 ~~*(f) As used in this section, "drink" means an individual serving of*~~  
9 ~~*cereal malt beverage.*~~

10 ~~*(g) This section shall be part of and supplemental to K.S.A. 41-2701*~~  
11 ~~*through 41-2721, and amendments thereto.*~~

12 ~~Sec. 3. 4. K.S.A. 41-2640 and 41-2722 and K.S.A. 2011 Supp. 41-~~  
13 ~~2601 are hereby repealed.~~

14 ~~Sec. 4. 5. This act shall take effect and be in force from and after its~~  
15 ~~publication in the statute book.~~

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