

## **Railway Cars, Tasting Samples, Special Event Permits, Salesperson's Permits, Microdistilleries, Happy Hour, Public Venues, Recreational Areas, Manufacturer Samples, Farm Wineries, Products Grown; Sub. for HB 2689**

**Sub. for HB 2689** contains the following provisions dealing with alcoholic beverages:

### ***Railway Cars***

The bill allows railway cars to be licensed as drinking establishments under the Club and Drinking Establishment Act. The bill defines a railway car to include a locomotive-drawn conveyance used for the transportation of people that is confined to a fixed route, deriving at least 30.0 percent of its gross receipts from all sales of food and alcoholic beverages on the railway car in a 12-month period.

Taxation on alcoholic liquor for consumption on licensed railroad cars conforms to those taxes applied to other drinking establishments. Under the bill, 70.0 percent of the revenue collected from sale of liquor in railway cars is divided equally among counties through which the railway car passes if the counties have approved the sale of liquor-by-the-drink.

### ***Tasting Samples***

The bill allows any person or entity who is licensed to sell alcoholic liquor in the original package at retail to conduct wine, beer, and distilled spirits tasting on a licensed premise or adjacent premises. Such activity is monitored and regulated by the Director of Alcoholic Beverage Control and subject to the provisions in the Kansas Liquor Control Act. The bill prohibits any charge for sample servings, and a person could be served more than one sample. The bill also prohibits any samples from being removed from the premises. Finally, the bill exempts an entity providing samples from the requirement of holding a Kansas food service dealer license.

### ***Special Event Permit***

The bill allows a temporary permit for a special event for selling and serving alcoholic liquor for consumption at an unlicensed premise. The temporary permit is valid at the Director of Alcoholic Beverage Control's discretion for the entire period of the special event, but not exceeding 30 days.

The bill also allows a temporary permit holder to resell unused alcoholic beverages within three days after the end of the event to the licensee from whom the alcoholic beverages were purchased.

### ***Repeal Salesperson's Permit***

The bill repeals KSA 41-333 through -341 that authorizes issuance of a salesperson's permit for the sale of, or the taking or soliciting of orders for the sale of, alcoholic liquor or cereal malt beverages in Kansas.

## ***New Microdistilleries***

The bill creates a microdistillery license which allows a licensee to manufacture and store not more than 50,000 gallons of spirits per year. A microdistillery is defined as a facility which produces spirits from any source or substance licensed by the Director of Alcoholic Beverage Control. The licensee is allowed to sell spirits manufactured by the microdistillery and serve free samples of spirits on the licensed premises and at special events monitored and regulated by the Division of Alcoholic Beverage Control. In addition, the licensee is allowed to sell spirits and other alcoholic liquor for consumption on the licensed premises if the microdistillery also is licensed as a club and drinking establishment.

The bill also creates a microdistillery packaging and warehouse facility license which allows the microdistillery licensee to transfer manufactured spirits from the microdistillery's licensed premise to the licensed packing and warehouse facility, transfer spirits from the licensed packing and warehouse facility to the licensed microdistillery, and remove spirits from the licensed packing and warehouse facility for delivery to a licensed spirits wholesaler.

The microdistillery license fee is \$500 and the microdistillery packaging and warehouse facility license fee is \$200. Each licensee has to post a bond of \$2,000.

The Division of Alcoholic Beverage Control is allowed to issue to the Kansas State Fair or any *bona fide* group of distillers a permit to import small quantities of spirits to be used for educational and scientific tasting programs.

A microdistillery is prohibited from hiring persons under 21 years old for certain duties and persons under 18 years old for the manufacture, sale, or serving of any alcoholic liquor. The licensee is prohibited from hiring any person who had been convicted of a felony.

The bill conforms the provisions that apply to a microdistillery license to provisions that apply to a microbrewery license.

## ***Individual Drinks, "Happy Hour"***

The bill allows clubs, drinking establishments, caterers, or temporary permit holders to sell or serve beer or cereal malt beverage in a pitcher containing not more than 64 fluid ounces.

The bill clarifies that an *individual* drink is defined as a beverage containing alcoholic liquor or cereal malt beverage served to a single individual, but which is not intended to be consumed by two or more people. An *individual* drink is defined as a beverage containing not more than eight ounces of wine, 32 ounces of beer or cereal malt beverage, or four ounces of a single spirit.

The bill also allows the sale of individual drinks at different prices throughout the day. The bill deletes the proportionate pricing requirement as applied to an alcoholic drink or a cereal malt beverage.

## ***Public Venue License***

The bill amends the Liquor Control Act and the Club and Drinking Establishment Act by creating a new class of license for a public venue. A public venue is defined as an arena,

stadium, hall, or theater, used primarily for athletic or sporting events, live theater productions, and live concerts, containing not less than 4,000 permanent seats and not less than two private suites. The public venue licensee is subject to taxes in the same manner as other licensees selling liquor by the drink under the Club and Drinking Establishment Act.

The licensee is allowed to sell and serve alcoholic beverages in designated areas by individual drinks, unlimited drinks for a fixed price, unlimited drinks in inclusive packages, and liquor in the original container for consumption in private suites. A "designated area" is defined as an area identified in the license application, that may include private suites, that has a controlled access, and that is separated from the general admission area by a barrier. The licensee also is allowed to store alcohol in private suites. The fee for a public venue license is set at \$5,000 for facilities with a maximum capacity of not more than 10,000 people; \$7,500 with a maximum capacity of not more than 25,000; and \$10,000 with a maximum capacity exceeding 25,000 people.

The bill also allows a city or county to levy a biennial occupation or license tax of not more than \$1,000 on the public venue licensee. The bill adds restrictions for the offering and serving of alcoholic liquor or cereal malt beverages at a public venue in general admission areas.

### ***Consumption in Certain Recreation Areas***

Additional provisions of the bill allow a person to consume alcoholic liquor on the premises of any land or water owned or managed by the Kansas Department of Wildlife, Parks and Tourism (Department), except where prohibited by rules and regulations of the Department. The effective date of this portion of the bill is January 1, 2013.

### ***Manufacturer Samples***

The bill allows the holder of a manufacturer's license to offer free samples of alcoholic liquor manufactured by the licensee on the licensed premise. No samples are allowed be served to a minor and samples could not be removed from the licensed premise. The licensee is not permitted to sell any alcoholic liquor for consumption on the premise.

### ***Farm Wineries***

The bill allows a farm winery licensee to sell wine manufactured by the licensee for consumption on the licensed premise, provided the licensed premise is located in a county where the sale of alcoholic liquor is permitted in licensed drinking establishments. The wine sold for consumption is not to be considered liquor-by-the-drink and therefore is exempt from the liquor-by-the-drink tax. The bill also allows the sale of wine from a farm winery in the original, unopened container at special events monitored and regulated by the Division of Alcoholic Beverage Control.

This section of the bill is effective upon publication in the *Kansas Register*.

### ***Percentage of Products Grown***

The bill requires not less than 30.0 percent of the products utilized in the manufacture of Kansas wine by a farm winery to be grown in Kansas. The production requirement is based on the annual production of wine by a farm winery and the availability of Kansas-grown products in sufficient quantity to meet the 30.0 percent standard. The Director of Alcoholic Beverage Control may waive the 30.0 percent requirement in years when insufficient Kansas-grown product is available for a farm winery.