

As Amended by House Committee

Session of 2013

Substitute for SENATE BILL No. 36

By Committee on Federal and State Affairs

2-6

1 AN ACT concerning alcoholic beverages; relating to ~~clubs and drinking~~
2 ~~establishments; permitting~~ tastings on licensed premises; amending
3 **K.S.A. 41-713 and 41-2610** and K.S.A. 2012 Supp. **41-308d, 41-354,**
4 41-2601, 41-2637, 41-2640, 41-2641, 41-2642, **41-2655** and 79-41a02
5 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 2012 Supp. 41-2601 is hereby amended to read as
9 follows: 41-2601. As used in the club and drinking establishment act:

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

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

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

21 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
22 2701, and amendments thereto.

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

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

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

34 (h) "Drinking establishment" means premises which may be open to
35 the general public, where alcoholic liquor by the individual drink is sold.
36 Drinking establishment includes a railway car.

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

4 (j) "Food service establishment" has the meaning provided by K.S.A.
5 36-501, and amendments thereto.

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

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

15 (m) "Minibar" means a closed cabinet, whether nonrefrigerated or
16 wholly or partially refrigerated, access to the interior of which is restricted
17 by means of a locking device which requires the use of a key, magnetic
18 card or similar device.

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

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

25 (p) "Municipal corporation" means the governing body of any county
26 or city.

27 (q) "Public venue" means an arena, stadium, hall or theater, used
28 primarily for athletic or sporting events, live concerts, live theatrical
29 productions or similar seasonal entertainment events, not operated on a
30 daily basis, and containing:

31 (1) Not less than 4,000 permanent seats; and

32 (2) not less than two private suites, which are enclosed or semi-
33 enclosed seating areas, having controlled access and separated from the
34 general admission areas by a permanent barrier.

35 (r) "Railway car" means a locomotive drawn conveyance used for the
36 transportation and accommodation of human passengers that is confined to
37 a fixed rail route and which derives from sales of food for consumption on
38 the railway car not less than 30% of its gross receipts from all sales of food
39 and beverages in a 12-month period.

40 (s) "Restaurant" means:

41 (1) In the case of a club, a licensed food service establishment which,
42 as determined by the director, derives from sales of food for consumption
43 on the licensed club premises not less than 50% of its gross receipts from

1 all sales of food and beverages on such premises in a 12-month period;

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

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

11 (t) "RV resort" means premises where a place to park recreational
12 vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered
13 for pay, primarily to transient guests, for overnight or longer use while
14 such recreational vehicles are used as sleeping or living accommodations.

15 (u) "*Sample*" means a serving of alcoholic liquor which contains not
16 more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine;
17 or (3) two ounces of beer or cereal malt beverage. A sample of a mixed
18 alcoholic beverage shall contain not more than one-half ounce of distilled
19 spirits.

20 (†) (v) "Secretary" means the secretary of revenue.

21 (†) (w) "Temporary permit" means a temporary permit issued
22 pursuant to K.S.A. 41-2645, and amendments thereto.

23 Sec. 2. K.S.A. 2012 Supp. 41-2637 is hereby amended to read as
24 follows: 41-2637. (a) A license for a class A club shall allow the licensee
25 to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on
26 the licensed premises by members and their families, and guests
27 accompanying them; and (2) *serve samples of alcoholic liquor free of*
28 *charge for consumption by members and their families and guests*
29 *accompanying them.*

30 *No charge of any sort may be made for a sample serving. A person may*
31 *be served no more than five samples per visit. Samples may not be served*
32 *to a minor. No samples may be removed from the licensed premises. No*
33 *consideration shall be requested or required for entry onto the premises,*
34 *participation in any event taking place on the premises or to remain on the*
35 *premises.*

36 (b) (1) Subject to the provisions of subsection (b)(2), any two or more
37 class A or class B clubs may permit, by an agreement filed with and
38 approved by the director, the members of each such club to have access to
39 all other clubs which are parties to such agreement. The privileges
40 extended to the visiting members of other clubs under such an agreement
41 shall be determined by the agreement and, if the agreement so provides,
42 any club which is a party to such agreement may sell, offer for sale and
43 serve, to any person who is a member of another club which is a party to

1 such agreement, alcoholic liquor for consumption on the licensed premises
2 by such person and such person's family, and guests accompanying them.

3 (2) A class B club may enter into a reciprocal agreement authorized
4 by subsection (b)(1) only if the class B club is a restaurant.

5 (c) A licensee may store on its premises wine sold to a customer for
6 consumption at a later date on its premises in the unopened container. Such
7 wine must be kept separate from all other alcohol stock and in a secure
8 locked area separated by customer. Such wine shall not be removed from
9 the licensed premises in its unopened condition.

10 Sec. 3. K.S.A. 2012 Supp. 41-2640 is hereby amended to read as
11 follows: 41-2640. (a) *Except as otherwise provided in this act*, no club,
12 drinking establishment, caterer or holder of a temporary permit, nor any
13 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 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) encourage or permit, on the licensed premises, any game or
24 contest which involves drinking alcoholic liquor or cereal malt beverage or
25 the awarding of individual drinks as prizes; or

26 (5) advertise or promote in any way, whether on or off the licensed
27 premises, any of the practices prohibited under subsections (a)(1) through
28 (4).

29 (b) No public venue, nor any person acting as an employee or agent
30 thereof, shall:

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

33 (2) offer or serve to any person a drink or original container of
34 alcoholic liquor or cereal malt beverage at a price that is less than the
35 acquisition cost of the drink or original container of alcoholic liquor or
36 cereal malt beverage to the licensee;

37 (3) sell or serve alcoholic liquor in glass containers to customers in
38 the general admission area;

39 (4) sell or serve more than two drinks per customer at any one time in
40 the general admission area;

41 (5) encourage or permit, on the licensed premises, any game or
42 contest which involves drinking alcoholic liquor or cereal malt beverage or
43 the awarding of drinks as prizes; or

1 (6) advertise or promote in any way, whether on or off the licensed
2 premises, any of the practices prohibited under subsections (b)(1) through
3 (5).

4 (c) A public venue club, drinking establishment, caterer or holder of a
5 temporary permit may:

6 (1) Offer free food or entertainment at any time;

7 (2) sell or deliver wine by the bottle or carafe;

8 (3) sell, offer to sell and serve individual drinks at different prices
9 throughout any day; or

10 (4) sell or serve beer or cereal malt beverage in a pitcher capable of
11 containing not more than 64 fluid ounces; *or*

12 (5) *offer samples of alcoholic liquor free of charge as authorized by*
13 *this act.*

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

16 (e) Violation of any provision of this section shall be grounds for
17 suspension or revocation of the licensee's license as provided by K.S.A.
18 41-2609, and amendments thereto, and for imposition of a civil fine on the
19 licensee or temporary permit holder as provided by K.S.A. 41-2633a, and
20 amendments thereto.

21 (f) Every licensed club and drinking establishment shall make
22 available at any time upon request a price list showing the club's or
23 drinking establishment's current prices per individual drink for all
24 individual drinks.

25 Sec. 4. K.S.A. 2012 Supp. 41-2641 is hereby amended to read as
26 follows: 41-2641. (a) A license for a class B club shall allow the licensee
27 to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on
28 the licensed premises by members of such club and guests accompanying
29 them; and (2) *serve samples of alcoholic liquor free of charge on the*
30 *licensed premises for consumption by such members and their families*
31 *and guests accompanying them.*

32 *No charge of any sort may be made for a sample serving. A person may*
33 *be served no more than five samples per visit. Samples may not be served*
34 *to a minor. No samples may be removed from the licensed premises.*
35 *Providing samples is prohibited for any licensee who charges a cover*
36 *charge or entry fee at any time during the business day. No consideration*
37 *shall be requested or required for entry onto the premises, participation in*
38 *any event taking place on the premises or to remain on the premises.*

39 (b) (1) Subject to the provisions of subsection (b)(2), any two or more
40 class A or class B clubs may permit, by an agreement filed with and
41 approved by the director, the members of each such club to have access to
42 all other clubs which are parties to such agreement. The privileges
43 extended to the visiting members of other clubs under such an agreement

1 shall be determined by the agreement and, if the agreement so provides,
2 any club which is a party to such agreement may sell, offer for sale and
3 serve, to any person who is a member of another club which is a party to
4 such agreement, alcoholic liquor for consumption on the licensed premises
5 by such person and such person's family, and guests accompanying them.

6 (2) A class B club may enter into a reciprocal agreement authorized
7 by subsection (b)(1) only if the class B club is a restaurant.

8 (c) Except as provided by subsection (d), an applicant for
9 membership in a class B club shall, before becoming a member of such
10 club:

11 (1) Be screened by the club for good moral character;

12 (2) pay an annual membership fee of not less than \$10; and

13 (3) wait for a period of 10 days after completion of the application
14 form and payment of the membership fee.

15 (d) Notwithstanding the membership fee and waiting period
16 requirement of subsection (c):

17 (1) Any class B club located on the premises of a hotel or RV resort
18 may establish rules whereby a guest, who registered at the hotel or RV
19 resort and who is not a resident of the county in which the club is located,
20 may file application for temporary membership in such club. The
21 membership, if granted, shall be valid only for the period of time that the
22 guest is a bona fide registered guest at the hotel or RV resort and such
23 temporary membership shall not be subject to the waiting period or fee
24 requirement of this section.

25 (2) Any class B club located on property which is owned or operated
26 by a municipal airport authority and upon which consumption of alcoholic
27 liquor is authorized by law may establish rules whereby an air traveler
28 who is a holder of a current airline ticket may file application for
29 temporary membership in such club for the day such air traveler's ticket is
30 valid, and such temporary membership shall not be subject to the waiting
31 period or fee requirement of this section.

32 (3) Any class B club may establish rules whereby military personnel
33 of the armed forces of the United States on temporary duty and housed at
34 or near any military installation located within the exterior boundaries of
35 the state of Kansas may file application for temporary membership in such
36 club. The membership, if granted, shall be valid only for the period of the
37 training, not to exceed 20 weeks. Any person wishing to make application
38 for temporary membership in a class B club under this subsection (d)(3)
39 shall present the temporary duty orders to the club. Temporary
40 membership issued under this subsection (d)(3) shall not be subject to the
41 waiting period or fee requirements of this section.

42 (4) Any class B club may enter into a written agreement with a hotel
43 or RV resort whereby a guest who is registered at the hotel or RV resort

1 and who is not a resident of the county in which the club is located may
2 file application for temporary membership in such club. The temporary
3 membership, if granted, shall be valid only for the period of time that the
4 guest is a bona fide registered guest at the hotel or RV resort and shall not
5 be subject to the waiting period or dues requirement of this section. A club
6 may enter into a written agreement with a hotel or RV resort pursuant to
7 this provision only if: (A) The hotel or RV resort is located in the same
8 county as the club;; (B) there is no class B club located on the premises of
9 the hotel or RV resort; and (C) no other club has entered into a written
10 agreement with the hotel or RV resort pursuant to this section.

11 (5) Any class B club located in a racetrack facility where races with
12 parimutuel wagering are conducted under the Kansas parimutuel racing act
13 may establish rules whereby persons attending such races may file an
14 application for temporary membership in such club for the day such person
15 is attending such races, and such temporary membership shall not be
16 subject to the waiting period or fee requirement of this section.

17 (e) A licensee may store on its premises wine sold to a customer for
18 consumption at a later date on its premises in the unopened container. Such
19 wine must be kept separate from all other alcohol stock and in a secure
20 locked area separated by customer. Such wine shall not be removed from
21 the licensed premises in its unopened condition.

22 Sec. 5. K.S.A. 2012 Supp. 41-2642 is hereby amended to read as
23 follows: 41-2642. (a) A license for a drinking establishment shall allow the
24 licensee to offer for sale, sell and serve alcoholic liquor for consumption
25 on the licensed premises which may be open to the public, *and to serve*
26 *samples of alcoholic liquor free of charge on licensed premises subject to*
27 *the requirements of subsection (c), and amendments thereto*, but only if
28 such premises are located in a county where the qualified electors of the
29 county:

30 (1) (A) Approved, by a majority vote of those voting thereon, the
31 proposition to amend section 10 of article 15 of the constitution of the state
32 of Kansas at the general election in November 1986, or (B) have approved
33 a proposition to allow sales of alcoholic liquor by the individual drink in
34 public places within the county at an election pursuant to K.S.A. 41-2646,
35 and amendments thereto; and

36 (2) have not approved a proposition to prohibit such sales of alcoholic
37 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
38 and amendments thereto.

39 (b) A drinking establishment shall be required to derive from sales of
40 food for consumption on the licensed premises not less than 30% of all the
41 establishment's gross receipts from sales of food and beverages on such
42 premises unless the licensed premises are located in a county where the
43 qualified electors of the county:

1 (1) Have approved, at an election pursuant to K.S.A. 41-2646, and
2 amendments thereto, a proposition to allow sales of alcoholic liquor by the
3 individual drink in public places within the county without a requirement
4 that any portion of their gross receipts be derived from the sale of food;
5 and

6 (2) have not approved a proposition to prohibit such sales of alcoholic
7 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
8 and amendments thereto.

9 (c) *No charge of any sort may be made for a sample serving. A*
10 *person may be served no more than five samples per visit. Samples may*
11 *not be served to a minor. No samples may be removed from the licensed*
12 *premises. Providing samples is prohibited for any licensee who charges a*
13 *cover charge or entry fee at any time during the business day. No*
14 *consideration shall be requested or required for entry onto the premises,*
15 *participation in any event taking place on the premises or to remain on the*
16 *premises.*

17 ~~(d)~~ (d) A drinking establishment shall specify in the application for a
18 license or renewal of a license the premises to be licensed, which may
19 include all premises which are in close proximity and are under the control
20 of the applicant or licensee.

21 ~~(e)~~ (e) Notwithstanding any other provision of law to the contrary,
22 any hotel of which the entire premises are licensed as a drinking
23 establishment or as a drinking establishment/caterer may sell alcoholic
24 liquor or cereal malt beverage by means of minibars located in guest
25 rooms of such hotel, subject to the following:

26 (1) The key, magnetic card or other device required to attain access to
27 a minibar in a guest room shall be provided only to guests who are
28 registered to stay in such room and who are 21 or more years of age;

29 (2) containers or packages of spirits or wine sold by means of a
30 minibar shall hold not less than 50 nor more than 200 milliliters; and

31 (3) a minibar shall be restocked with alcoholic liquor or cereal malt
32 beverage only during hours when the hotel is permitted to sell alcoholic
33 liquor and cereal malt beverage as a drinking establishment.

34 ~~(f)~~ (f) A drinking establishment may store on its premises wine sold
35 to a customer for consumption at a later date on its premises in the
36 unopened container. Such wine must be kept separate from all other
37 alcohol stock and in a secure locked area separated by customer. Such
38 wine shall not be removed from the licensed premises in its unopened
39 condition.

40 **Sec. 6. K.S.A. 2012 Supp. 41-308d is hereby amended to read as**
41 **follows: 41-308d. (a) Notwithstanding any other provisions of the**
42 **Kansas liquor control act to the contrary, any person or entity who is**
43 **licensed to sell alcoholic liquor in the original package at retail may**

1 conduct wine, beer and distilled spirit tastings on the licensed
2 premises, or adjacent premises, monitored and regulated by the
3 division of alcoholic beverage control, as follows:

4 (1) Wine, beer and spirits for the tastings shall come from the
5 inventory of the licensee. Except as provided by paragraph (2), a
6 person other than the licensee or the licensee's agent or employee may
7 not dispense or participate in the dispensing of alcoholic beverages
8 under this section.

9 (2) The holder of a supplier's permit or such permit holder's
10 agent or employee may participate in and conduct product tastings of
11 alcoholic beverages at a retail licensee's premises, or adjacent
12 premises, monitored and regulated by the division of alcoholic
13 beverage control, and may open, touch, or pour alcoholic beverages,
14 make a presentation, or answer questions at the tasting. Any alcoholic
15 beverage tasted under this subsection must be purchased from the
16 retailer on whose premises the tasting is held. The retailer may not
17 require the purchase of more alcoholic beverages than are necessary
18 for the tasting. This section does not authorize the supplier or its agent
19 to withdraw or purchase an alcoholic beverage from the holder of a
20 distributor's permit or provide an alcoholic beverage for tasting on a
21 retailer's premises that is not purchased from the retailer.

22 (3) No charge of any sort may be made for a sample serving.

23 (4) A person may be served more than one sample. Samples may
24 not be served to a minor. No samples may be removed from the
25 licensed premises.

26 (5) The act of providing samples to consumers shall be exempt
27 from the requirement of holding a Kansas food service dealer license
28 from the department of agriculture under the provisions of chapter 65
29 of the Kansas Statutes Annotated, and amendments thereto.

30 (b) Nothing in this section shall be construed to permit the
31 licensee to sell wine, malt beverages or distilled spirits for on-premises
32 consumption.

33 (c) The provisions of this section shall take effect and be in force
34 from and after July 1, 2012.

35 (d) *All rules and regulations adopted on and after July 1, 2012, and*
36 *prior to July 1, 2013, to implement this section shall continue to be*
37 *effective and shall be deemed to be duly adopted rules and regulations of*
38 *the secretary until revised, amended, revoked or nullified pursuant to law.*

39 (e) *This section shall be a part of and supplemental to the Kansas*
40 *liquor control act.*

41 **Sec. 7. K.S.A. 41-713 is hereby amended to read as follows: 41-**
42 **713. (a) It shall be unlawful for a retailer of alcoholic liquor:**

43 (1) To permit any person to mix drinks in or on the licensed

1 premises, *except as provided in subsection (b)*;

2 (2) to employ any person under the age of ~~twenty-one (21)~~ 21
3 years in connection with the operation of such retail establishment; or

4 (3) to employ any person in connection with the operation of such
5 retail establishment who has been adjudged guilty of a felony.

6 (b) *The provisions of subsection (a)(1) shall not apply to the*
7 *preparation or mixing of samples for the purposes of conducting wine,*
8 *beer, or distilled spirit tastings, or any combination thereof, as authorized*
9 *by K.S.A. 2012 Supp. 41-308d, and amendments thereto.*

10 Sec. 8. K.S.A. 2012 Supp. 41-354 is hereby amended to read as
11 follows: 41-354. (a) A microdistillery license shall allow:

12 (1) The manufacture of not more than 50,000 gallons of spirits
13 per year and the storage thereof;

14 (2) the sale to spirit distributors of spirits, manufactured by the
15 licensee;

16 (3) the sale, on the licensed premises in the original unopened
17 container to consumers for consumption off the licensed premises, of
18 spirits manufactured by the licensee;

19 (4) the serving free of charge on the licensed premises and at
20 special events, monitored and regulated by the division of alcoholic
21 beverage control, of samples of spirits manufactured by the licensee, if
22 the premises are located in a county where the sale of alcoholic liquor
23 is permitted by law in licensed drinking establishments;

24 (5) if the licensee is also licensed as a club or drinking
25 establishment, the sale of spirits and other alcoholic liquor for
26 consumption on the licensed premises as authorized by the club and
27 drinking establishment act; and

28 (6) if the licensee is also licensed as a caterer, the sale of spirits
29 and other alcoholic liquor for consumption on unlicensed premises as
30 authorized by the club and drinking establishment act.

31 (b) Upon application and payment of the fee prescribed by K.S.A.
32 41-310, and amendments thereto, by a microdistillery licensee, the
33 director may issue not to exceed one microdistillery packaging and
34 warehousing facility license to the microdistillery licensee. A
35 microdistillery packaging and warehousing facility license shall allow:

36 (1) The transfer, from the licensed premises of the microdistillery
37 to the licensed premises of the microdistillery packaging and
38 warehousing facility, of spirits manufactured by the licensee, for the
39 purpose of packaging or storage, or both;

40 (2) the transfer, from the licensed premises of the microdistillery
41 packaging and warehousing facility to the licensed premises of the
42 microdistillery, of spirits manufactured by the licensee; or

43 (3) the removal from the licensed premises of the microdistillery

1 packaging and warehousing facility of spirits manufactured by the
2 licensee for the purpose of delivery to a licensed spirits wholesaler.

3 (c) A microdistillery may sell spirits in the original unopened
4 container to consumers for consumption off the licensed premises at
5 any time between 6 a.m. and 12 midnight on any day except Sunday
6 and between 11 a.m. and 7 p.m. on Sunday. If authorized by
7 subsection (a), a microdistillery may serve samples of spirits and serve
8 and sell spirits and other alcoholic liquor for consumption on the
9 licensed premises at any time when a club or drinking establishment is
10 authorized to serve and sell alcoholic liquor.

11 (d) The director may issue to the Kansas state fair or any bona
12 fide group of distillers a permit to import into this state small
13 quantities of spirits. Such spirits shall be used only for bona fide
14 educational and scientific tasting programs and shall not be resold.
15 Such spirits shall not be subject to the tax imposed by K.S.A. 41-501,
16 and amendments thereto. The permit shall identify specifically the
17 brand and type of spirit to be imported, the quantity to be imported,
18 the tasting programs for which the spirit is to be used and the times
19 and locations of such programs. The secretary shall adopt rules and
20 regulations governing the importation of spirits pursuant to this
21 subsection and the conduct of tasting programs for which such spirits
22 are imported.

23 (e) A microdistillery license or microdistillery packaging and
24 warehousing facility license shall apply only to the premises described
25 in the application and in the license issued and only one location shall
26 be described in the license.

27 (f) No microdistillery shall:

28 (1) Employ any person under the age of 18 years in connection
29 with the manufacture, sale or serving of any alcoholic liquor;

30 (2) permit any employee of the licensee who is under the age of 21
31 years to work on the licensed premises at any time when not under the
32 on-premises supervision of either the licensee or an employee of the
33 licensee who is 21 years of age or over;

34 (3) employ any person under 21 years of age in connection with
35 mixing or dispensing alcoholic liquor; or

36 (4) employ any person in connection with the manufacture or sale
37 of alcoholic liquor if the person has been convicted of a felony.

38 (g) Whenever a microdistillery licensee is convicted of a violation
39 of the Kansas liquor control act, the director may revoke the licensee's
40 license and all fees paid for the license in accordance with the Kansas
41 administrative procedure act.

42 (h) The provisions of this section shall take effect and be in force
43 from and after July 1, 2012.

1 (i) *All rules and regulations adopted on and after July 1, 2012, and*
2 *prior to July 1, 2013, to implement this section shall continue to be*
3 *effective and shall be deemed to be duly adopted rules and regulations of*
4 *the secretary until revised, amended, revoked or nullified pursuant to law.*

5 (j) *This section shall be a part of and supplemental to the Kansas*
6 *liquor control act.*

7 **Sec. 9. K.S.A. 2012 Supp. 41-2655 is hereby amended to read as**
8 **follows: 41-2655. (a) A license for a public venue shall allow the**
9 **licensee to:**

10 **(1) Offer for sale, sell and serve alcoholic liquor by the individual**
11 **drink for consumption on the licensed premises;**

12 **(2) offer for sale, sell and serve unlimited drinks for a fixed price**
13 **in designated areas of the licensed premises;**

14 **(3) offer for sale and sell all inclusive packages which include**
15 **unlimited drinks in designated areas of the licensed premises;**

16 **(4) offer for sale, sell and serve alcoholic liquor in the original**
17 **container for consumption on the licensed premises in private suites,**
18 **which are enclosed or semi-enclosed seating areas, having controlled**
19 **access and separated from the general admission areas by a**
20 **permanent barrier;**

21 **(5) store, in each private suite, which ~~are~~ is enclosed or semi-**
22 **enclosed seating areas, having controlled access and separated from**
23 **the general admission areas by a permanent barrier, alcoholic liquor**
24 **sold in the original container to a customer in that private suite; and**

25 **(6) with the approval of the retailer or distributor, return for a**
26 **full refund of the original purchase price unopened containers of**
27 **alcoholic liquor to the retailer or distributor from whom such items**
28 **were purchased upon the conclusion of an event if the next scheduled**
29 **event for that premises is more than 90 days from the date of the**
30 **concluded event.**

31 **(b) An applicant or public venue licensee shall specify in the**
32 **application for a license, or renewal of a license, the premises to be**
33 **licensed. No public venue licensee may offer for sale, sell or serve any**
34 **alcoholic liquor in any area not included in the licensed premises.**

35 **(c) The term "designated areas" for purposes of this section shall**
36 **mean an area identified in the license application, which may include**
37 **suites, that has controlled access and is separated from the general**
38 **admission by a barrier.**

39 **(d) The provisions of this section shall take effect and be in force**
40 **from and after July 1, 2012.**

41 (e) *All rules and regulations adopted on and after July 1, 2012, and*
42 *prior to July 1, 2013, to implement this section shall continue to be*
43 *effective and shall be deemed to be duly adopted rules and regulations of*

1 *the secretary until revised, amended, revoked or nullified pursuant to law.*

2 *(f) This section shall be a part of and supplemental to the club and*
3 *drinking establishment act.*

4 **Sec. 10. K.S.A. 41-2610 is hereby amended to read as follows: 41-**
5 **2610. It shall be unlawful for any licensee or holder of a temporary**
6 **permit under this act to:**

7 **(a) Employ any person under the age of 18 years in connection**
8 **with the serving of alcoholic liquor.**

9 **(b) Employ knowingly or continue in employment any person in**
10 **connection with the dispensing or serving of alcoholic liquor or the**
11 **mixing of drinks containing alcoholic liquor who has been adjudged**
12 **guilty of a felony or of any crime involving a morals charge in this or**
13 **any other state, or of the United States.**

14 ~~(c) Employ knowingly or to continue in employment any person in~~
15 ~~connection with the dispensing or serving of alcoholic liquor or mixing of~~
16 ~~drinks containing alcoholic liquor who has been adjudged guilty of a~~
17 ~~violation of any intoxicating liquor law of this or any other state, or of the~~
18 ~~United States, during the two-year period immediately following such~~
19 ~~adjudging. Knowingly employ or continue to employ any person in~~
20 ~~connection with the dispensing or serving of alcoholic liquor, or the~~
21 ~~mixing of drinks containing alcoholic liquor, who has been adjudged~~
22 ~~guilty of two or more violations of K.S.A. 2012 Supp. 21-5607, and~~
23 ~~amendments thereto, furnishing alcoholic liquor to minors or a similar of~~
24 ~~any other state law, or of the United States, pertaining to furnishing~~
25 ~~alcoholic liquor to minors within the immediately preceding five years, or~~
26 ~~who has been adjudged guilty of three or more violations of any~~
27 ~~intoxicating liquor law of this or any other state, or of the United States,~~
28 ~~not involving the furnishing of alcoholic liquor to minors within the~~
29 ~~immediately preceding five years.~~

30 **(d) In the case of a club, fail to maintain at the licensed premises**
31 **a current list of all members and their residence addresses or refuse to**
32 **allow the director, any of the director's authorized agents or any law**
33 **enforcement officer to inspect such list.**

34 **(e) Purchase alcoholic liquor from any person except from a**
35 **person authorized by law to sell such alcoholic liquor to such licensee**
36 **or permit holder.**

37 **(f) Permit any employee of the licensee or permit holder who is**
38 **under the age of 21 years to work on premises where alcoholic liquor**
39 **is sold by such licensee or permit holder at any time when not under**
40 **the on-premises supervision of either the licensee or permit holder, or**
41 **an employee who is 21 years of age or over.**

42 **(g) Employ any person under 21 years of age in connection with**
43 **the mixing or dispensing of drinks containing alcoholic liquor.**

1 ~~Sec. 6.~~ **11.** K.S.A. 2012 Supp. 79-41a02 is hereby amended to read as
2 follows: 79-41a02. (a) There is hereby imposed, for the privilege of selling
3 alcoholic liquor, a tax at the rate of 10% upon the gross receipts derived
4 from the sale of alcoholic liquor by any club, caterer, drinking
5 establishment, public venue or temporary permit holder, *and upon the*
6 *acquisition costs of any alcoholic liquor served as samples by clubs and*
7 *drinking establishments.*

8 (b) The tax imposed by this section shall be paid by the consumer to
9 the club, caterer, drinking establishment, public venue or temporary permit
10 holder and it shall be the duty of each and every club, caterer, drinking
11 establishment, public venue or temporary permit holder subject to this
12 section to collect from the consumer the full amount of such tax, or an
13 amount equal as nearly as possible or practicable to the average equivalent
14 thereto. Each club, caterer, drinking establishment, public venue or
15 temporary permit holder collecting the tax imposed hereunder shall be
16 responsible for paying over the same to the state department of revenue in
17 the manner prescribed by K.S.A. 79-41a03, and amendments thereto, and
18 the state department of revenue shall administer and enforce the collection
19 of such tax.

20 (c) *Any club or drinking establishment that serves free samples of*
21 *alcoholic liquor shall remit the tax imposed by subsection (a) in the*
22 *manner prescribed by K.S.A. 79-41a03, and amendments thereto, and the*
23 *state department of revenue shall administer and enforce the payment of*
24 *such tax.*

25 ~~New Sec. 7.~~ **12.** (a) Alcoholic liquor and cereal malt beverage for the
26 sampling as provided for in K.S.A. 41-2637, 41-2640, 41-2641 and 41-
27 2642, and amendments thereto, shall be withdrawn from the inventory of
28 the licensee. Except as provided by subsection (b), a person other than the
29 licensee or the licensee's agent or employee may not dispense or
30 participate in the dispensing of alcoholic beverages under this section.

31 (b) The holder of a supplier's permit or such permit holder's agent or
32 employee may participate in and conduct product tastings of alcoholic
33 beverages at a licensee's premises, monitored and regulated by the division
34 of alcoholic beverage control, and may open, touch or pour alcoholic
35 beverages, make a presentation or answer questions at the tasting. Any
36 alcoholic beverage or cereal malt beverages sampled under this subsection
37 must be purchased from the licensee on whose premises the sampling is
38 held. The licensee may not require the purchase of more alcoholic
39 beverages or cereal malt beverage than is necessary for the tasting. This
40 section does not authorize the supplier or its agent to withdraw or purchase
41 an alcoholic beverage or cereal malt beverage from the holder of a
42 distributor's license or provide an alcoholic beverage or cereal malt
43 beverage for sampling on licensee's premises that is not purchased from

1 the licensee.

2 New Sec. ~~8~~ **13**. Each licensee licensed under this act who provides
3 samples shall pay the drink tax imposed by K.S.A. 79-41a01 et seq., and
4 amendments thereto, on the alcoholic liquor and cereal malt beverage
5 inventory when the inventory is withdrawn from the licensee's stock based
6 on the licensee's acquisition cost.

7 Sec. ~~9~~ **14**. **K.S.A. 41-713 and 41-2610** and K.S.A. 2012 Supp. **41-**
8 **308d, 41-354**, 41-2601, 41-2637, 41-2640, 41-2641, 41-2642, **41-2655** and
9 79-41a02 are hereby repealed.

10 Sec. ~~10~~ **15**. This act shall take effect and be in force from and after
11 its publication in the statute book.