

As Amended by House Committee

Session of 2013

SENATE BILL No. 7

By Joint Committee on Administrative Rules and Regulations

1-8

1 AN ACT concerning alcoholic beverages; relating to preparation of
2 samples for tasting; relating to penalties; **relating to consumption of**
3 **alcoholic beverages**; amending K.S.A. 41-713 and K.S.A. 2012 Supp.
4 41-308d, 41-354, **41-719** and 41-2655 and repealing the existing
5 sections.

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

8 New Section 1. (a) Notwithstanding the provisions of either the
9 Kansas administrative procedure act, and amendments thereto, or any rule
10 and regulation adopted pursuant to the Kansas liquor control act, and
11 amendments thereto, governing the issuance of any written administrative
12 notice or order concerning the imposition of any proposed civil fine or
13 other penalty to be imposed for a violation of any of the provisions of the
14 Kansas liquor control act, K.S.A. 41-101 et seq., and amendments thereto,
15 such notice or order shall be issued no later than 90 days after the date a
16 citation for such violation was issued.

17 (b) This section shall be part of and supplemental to the provisions of
18 the Kansas liquor control act, K.S.A. 41-101 et seq., and amendments
19 thereto.

20 New Sec. 2. (a) Notwithstanding the provisions of either the Kansas
21 administrative procedure act, and amendments thereto, or any rule and
22 regulation adopted pursuant to the club and drinking establishment act, and
23 amendments thereto, governing the issuance of any written administrative
24 notice or order concerning the imposition of any proposed civil fine or
25 other penalty to be imposed for a violation of any of the provisions of the
26 club and drinking establishment act, K.S.A. 41-2601 et seq., and
27 amendments thereto, such notice or order shall be issued no later than 90
28 days after the date a citation for such violation was issued.

29 (b) This section shall be part of and supplemental to the provisions of
30 the Kansas club and drinking establishment act, K.S.A. 41-2601 et seq.,
31 and amendments thereto.

32 Sec. 3. K.S.A. 2012 Supp. 41-308d is hereby amended to read as
33 follows: 41-308d. (a) Notwithstanding any other provisions of the Kansas
34 liquor control act to the contrary, any person or entity who is licensed to
35 sell alcoholic liquor in the original package at retail may conduct wine,
36 beer and distilled spirit tastings on the licensed premises, or adjacent

1 premises, monitored and regulated by the division of alcoholic beverage
2 control, as follows:

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

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

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

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

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

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

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

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

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

39 Sec. 4. K.S.A. 41-713 is hereby amended to read as follows: 41-713.

40 (a) It shall be unlawful for a retailer of alcoholic liquor:

41 (1) To permit any person to mix drinks in or on the licensed premises,
42 *except as provided in subsection (b);*

43 (2) to employ any person under the age of ~~twenty-one (21)~~ 21 years

1 in connection with the operation of such retail establishment; or

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

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

8 Sec. 5. K.S.A. 2012 Supp. 41-354 is hereby amended to read as
9 follows: 41-354. (a) A microdistillery license shall allow:

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

12 (2) the sale to spirit distributors of spirits, manufactured by the
13 licensee;

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

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

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

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

29 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
30 310, and amendments thereto, by a microdistillery licensee, the director
31 may issue not to exceed one microdistillery packaging and warehousing
32 facility license to the microdistillery licensee. A microdistillery packaging
33 and warehousing facility license shall allow:

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

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

41 (3) the removal from the licensed premises of the microdistillery
42 packaging and warehousing facility of spirits manufactured by the licensee
43 for the purpose of delivery to a licensed spirits wholesaler.

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

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

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

24 (f) No microdistillery shall:

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

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

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

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

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

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

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

4 Sec. 6. K.S.A. 2012 Supp. 41-2655 is hereby amended to read as
5 follows: 41-2655. (a) A license for a public venue shall allow the licensee
6 to:

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

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

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

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

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

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

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

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

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

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

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

43 **Sec. 7. K.S.A. 2012 Supp. 41-719 is hereby amended to read as**

1 follows: 41-719. (a) (1) Except as otherwise provided herein and in
2 K.S.A. 8-1599, and amendments thereto, no person shall drink or
3 consume alcoholic liquor on the public streets, alleys, roads or
4 highways or inside vehicles while on the public streets, alleys, roads or
5 highways.

6 (2) Alcoholic liquor may be consumed at a special event held on
7 public streets, alleys, roads, sidewalks or highways when a temporary
8 permit has been issued pursuant to K.S.A 41-2645, and amendments
9 thereto, for such special event. Such special event must be approved,
10 by ordinance or resolution, by the local governing body of any city,
11 county or township where such special event is being held. No
12 alcoholic liquor may be consumed inside vehicles while on public
13 streets, alleys, roads or highways at any such special event.

14 (3) No person shall remove any alcoholic liquor from inside the
15 boundaries of a special event as designated by the governing body of
16 any city, county or township. The boundaries of such special event
17 shall be clearly marked by signs, a posted map or other means which
18 reasonably identify the area in which alcoholic liquor may be
19 possessed or consumed at such special event.

20 (4) No person shall possess or consume alcoholic liquor inside the
21 premises licensed as a special event that was not sold or provided by
22 the licensee holding the temporary permit for such special event.

23 (b) No person shall drink or consume alcoholic liquor on private
24 property except:

25 (1) On premises where the sale of liquor by the individual drink is
26 authorized by the club and drinking establishment act;

27 (2) upon private property by a person occupying such property as
28 an owner or lessee of an owner and by the guests of such person, if no
29 charge is made for the serving or mixing of any drink or drinks of
30 alcoholic liquor or for any substance mixed with any alcoholic liquor
31 and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and
32 amendments thereto, takes place;

33 (3) in a lodging room of any hotel, motel or boarding house by the
34 person occupying such room and by the guests of such person, if no
35 charge is made for the serving or mixing of any drink or drinks of
36 alcoholic liquor or for any substance mixed with any alcoholic liquor
37 and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and
38 amendments thereto, takes place;

39 (4) in a private dining room of a hotel, motel or restaurant, if the
40 dining room is rented or made available on a special occasion to an
41 individual or organization for a private party and if no sale of
42 alcoholic liquor in violation of K.S.A. 41-803, and amendments
43 thereto, takes place; or

1 **(5) on the premises of a manufacturer, microbrewery,**
2 **microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-**
3 **308a, 41-308b or K.S.A. 2012 Supp. 41-354, and amendments thereto.**

4 **(c) No person shall drink or consume alcoholic liquor on public**
5 **property except:**

6 **(1) On real property leased by a city to others under the**
7 **provisions of K.S.A. 12-1740 through 12-1749, and amendments**
8 **thereto, if such real property is actually being used for hotel or motel**
9 **purposes or purposes incidental thereto.**

10 **(2) In any state-owned or operated building or structure, and on**
11 **the surrounding premises, which is furnished to and occupied by any**
12 **state officer or employee as a residence.**

13 **(3) On premises licensed as a club or drinking establishment and**
14 **located on property owned or operated by an airport authority**
15 **created pursuant to chapter 27 of the Kansas Statutes Annotated, and**
16 **amendments thereto, or established by a city.**

17 **(4) On the state fair grounds on the day of any race held thereon**
18 **pursuant to the Kansas parimutuel racing act.**

19 **(5) On the state fairgrounds, if: (A) The alcoholic liquor is**
20 **domestic beer or wine or wine imported under subsection (e) of K.S.A.**
21 **41-308a, and amendments thereto, and is consumed only for purposes**
22 **of judging competitions; (B) the alcoholic liquor is wine or beer and is**
23 **sold and consumed during the days of the Kansas state fair on**
24 **premises leased by the state fair board to a person who holds a**
25 **temporary permit issued pursuant to K.S.A. 41-2645, and**
26 **amendments thereto, authorizing the sale and serving of such wine or**
27 **beer, or both; or (C) the alcoholic liquor is consumed on nonfair days**
28 **in conjunction with bona fide scheduled events involving not less than**
29 **75 invited guests and the state fair board, in its discretion, authorizes**
30 **the consumption of the alcoholic liquor, subject to any conditions or**
31 **restrictions the board may require.**

32 **(6) In the state historical museum provided for by K.S.A. 76-**
33 **2036, and amendments thereto, on the surrounding premises and in**
34 **any other building on such premises, as authorized by rules and**
35 **regulations of the state historical society.**

36 **(7) On the premises of any state-owned historic site under the**
37 **jurisdiction and supervision of the state historical society, on the**
38 **surrounding premises and in any other building on such premises, as**
39 **authorized by rules and regulations of the state historical society.**

40 **(8) In a lake resort within the meaning of K.S.A. 32-867, and**
41 **amendments thereto, on state-owned or leased property.**

42 **(9) In the Hiram Price Dillon house or on its surrounding**
43 **premises, subject to limitations established in policies adopted by the**

1 legislative coordinating council, as provided by K.S.A. 75-3682, and
2 amendments thereto.

3 (10) On the premises of any Kansas national guard regional
4 training center or armory, and any building on such premises, as
5 authorized by rules and regulations of the adjutant general and upon
6 approval of the Kansas military board.

7 (11) On the premises of any land or waters owned or managed by
8 the department of wildlife, parks and tourism, except as otherwise
9 prohibited by rules and regulations of the department adopted by the
10 secretary pursuant to K.S.A. 32-805, and amendments thereto.

11 (12) *On the premises of the state capitol building or on its*
12 *surrounding premises during an official state function that has been*
13 *approved by the legislative coordinating council.*

14 (13) On property exempted from this subsection (c) pursuant to
15 subsection (d), (e), (f), (g) or (h).

16 (d) Any city may exempt, by ordinance, from the provisions of
17 subsection (c) specified property the title of which is vested in such
18 city.

19 (e) The board of county commissioners of any county may
20 exempt, by resolution, from the provisions of subsection (c) specified
21 property the title of which is vested in such county.

22 (f) The state board of regents may exempt from the provisions of
23 subsection (c) the Sternberg museum on the campus of Fort Hays state
24 university, or other specified property which is under the control of
25 such board and which is not used for classroom instruction, where
26 alcoholic liquor may be consumed in accordance with policies adopted
27 by such board.

28 (g) The board of regents of Washburn university may exempt
29 from the provisions of subsection (c) the Mulvane art center and the
30 Bradbury Thompson alumni center on the campus of Washburn
31 university, and other specified property the title of which is vested in
32 such board and which is not used for classroom instruction, where
33 alcoholic liquor may be consumed in accordance with policies adopted
34 by such board.

35 (h) The board of trustees of a community college may exempt
36 from the provisions of subsection (c) specified property which is under
37 the control of such board and which is not used for classroom
38 instruction, where alcoholic liquor may be consumed in accordance
39 with policies adopted by such board.

40 (i) Violation of any provision of this section is a misdemeanor
41 punishable by a fine of not less than \$50 or more than \$200 or by
42 imprisonment for not more than six months, or both.

43 (j) For the purposes of this section, "special event" means a

1 **picnic, bazaar, festival or other similar community gathering, which**
2 **has been approved by the local governing body of any city, county or**
3 **township.**

4 Sec. ~~7~~ **8.** K.S.A. 41-713 and K.S.A. 2012 Supp. 41-308d, 41-354, **41-**
5 **719** and 41-2655 are hereby repealed.

6 Sec. ~~8~~ **9.** This act shall take effect and be in force from and after its
7 publication in the statute book.