

19

Session of 2013

As Amended by Senate Committee

SENATE BILL No. 203

By Committee on Federal and State Affairs

2-14

Proposed Amendments to SB 203 #2
March 8, 2013
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Office of Revisor of Statutes

1 AN ACT concerning intoxicating liquor; dealing with club and drinking
2 establishments; amending K.S.A. 2012 Supp. 41-2640 and repealing
3 the existing section.

41-104 and

sections

Insert Attachment A

4 Be it enacted by the Legislature of the State of Kansas:

5 Section 1. K.S.A. 2012 Supp. 41-2640 is hereby amended to read as
6 follows: 41-2640. (a) No club, drinking establishment, caterer or holder of
7 a temporary permit, nor any person acting as an employee or agent thereof,
8 shall:

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

11 (2) Offer or serve to any person an individual drink at a price that is
12 less than the acquisition cost of the individual drink to the licensee or
13 permit holder;

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

18 (4) Encourage or permit, on the licensed premises, any game or
19 contest which involves drinking alcoholic liquor or cereal malt beverage or
20 the awarding of individual drinks as prizes; or

21 (5) Advertise or promote in any way, whether on or off the licensed
22 premises, any of the practices prohibited under subsections (a)(1) through
23 (4).

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

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

28 (2) Offer or serve to any person a drink or original container of
29 alcoholic liquor or cereal malt beverage at a price that is less than the
30 acquisition cost of the drink or original container of alcoholic liquor or
31 cereal malt beverage to the licensee;

32 (3) Sell or serve alcoholic liquor in glass containers to customers in
33 the general admission area;

34 (4) Sell or serve more than two drinks per customer at any one time in
35 the general admission area;
36

And by redesignating sections accordingly

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

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

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

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

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

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

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

15 (5) sell or serve margarita, sangria, daiquiri, mojito or other mixed
16 alcoholic beverages as approved by the director in a pitcher containing
17 not more than 64 fluid ounces; or

18 ~~(6) offer customer self-service of alcoholic liquor, beer, cereal malt
19 beverage or wine from automated devices on the licensee's premises so
20 long as the licensee monitors and has the ability to control the
21 consumption of such alcoholic liquor, beer, cereal malt beverage or wine
22 from such automated devices; and such consumption is monitored by
23 video surveillance under the real-time review of the licensee's
24 management and the Kansas racing and gaming commission.~~

25 (d) A hotel of which the entire premises is licensed as a drinking
26 establishment may, in accordance with rules and regulations adopted by
27 the secretary, distribute to its guests coupons redeemable on the hotel
28 premises for drinks containing alcoholic liquor. The hotel shall remit
29 liquor drink tax in accordance with the provisions of the liquor drink tax
30 act, K.S.A. 79-41a01 et seq., and amendments thereto, on each drink
31 served based on a price which is not less than the acquisition cost of the
32 drink.

33 (e) A hotel of which the entire premises is not licensed as a drinking
34 establishment may, in accordance with rules and regulations adopted by
35 the secretary, through an agreement with one or more clubs or drinking
36 establishments, distribute to its guests coupons redeemable at such clubs
37 or drinking establishments for drinks containing alcoholic liquor. Each
38 club or drinking establishment redeeming coupons issued by a hotel shall
39 collect from the hotel the agreed price, which shall be not less than the
40 acquisition cost of the drink plus the liquor drink tax for each drink
41 served. The club or drinking establishment shall collect and remit the
42 liquor drink tax in accordance with the provisions of the liquor drink tax
43 act, K.S.A. 79-41a01 et seq., and amendments thereto.

OR

Strike

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

3 (g) 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 (f) ~~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 *New Sec. 2. (a) If a person who has attained 18 years of age, or is*
13 *an emancipated minor, enters premises licensed pursuant to the Kansas*
14 *liquor control act or club and drinking establishment act where*
15 *alcoholic liquor or cereal malt beverages are sold and offers or presents*
16 *to a licensee or an agent or employee of the licensee written evidence of*
17 *age, that is fraudulent or false or that is not actually the person's own,*
18 *or otherwise misrepresents the person's age, for the purpose of inducing*
19 *the licensee or an agent or employee of the licensee to sell, give, serve or*
20 *furnish alcoholic beverages contrary to the law, shall be liable, in*
21 *addition to any criminal penalty provided by law, for damages of \$1,000*
22 *and, in addition, costs and reasonable attorney fees in a civil action*
23 *brought by the licensee.*

24 (b) *A person who is of legal age for the consumption of alcoholic*
25 *liquor or cereal malt beverage who solicits another person or who*
26 *themselves purchases or receives alcoholic liquor from a licensee under*
27 *the liquor control act or the club and drinking establishment act, an*
28 *agent or employee of the licensee, or another person, for the purpose of*
29 *selling, giving, or serving it to a person under the age of 21 years shall*
30 *be liable to the licensee for damages in a civil action for a penalty of*
31 *\$1,000 and, in addition, costs and reasonable attorney fees.*

32 (c) *It is a condition precedent to maintaining a civil action under*
33 *this section that the licensee send by first class mail to the defendant at*
34 *the defendant's last known address 15 days or more before the civil*
35 *action is commenced, a notice demanding the relief authorized. It is not*
36 *a condition precedent to maintaining an action under this section that*
37 *the person who allegedly violated subsection (a) or (b) was charged with*
38 *or convicted under any criminal statute or ordinance regarding*
39 *furnishing cereal malt beverages or alcoholic liquor to minors.*

40 (d) *A person does not violate this section if the person performs an*
41 *act proscribed under this section at the request of law enforcement or*
42 *the alcoholic beverage control, and such enforcement officers*
43 *accompany, supervise or otherwise observe the person's act, and the*

1 *purpose of the act is to assist in the enforcement of and compliance with*
2 *Kansas law.* 41-104
3 ~~Sec. 2-3.~~ K.S.A. 2012 Supp. 41-2640 ~~is hereby repealed.~~
4 ~~Sec. 3-4.~~ This act shall take effect and be in force from and after its are
5 publication in the statute book.

K.S.A. 2012 Supp. 41-104 is hereby amended to read as follows: 41-104. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, except that nothing contained in this act shall prevent:

- (a) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A. 41-407, and amendments thereto, shall be applicable to all persons;
- (b) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker and the maker's family;
- (c) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;
- (d) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;
- (e) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;
- (f) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church; or
- (g) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following: (1) The consumer must be at least 21 years of age; (2) the consumer must purchase the wine while physically present on the premises of the wine manufacturer; (3) the wine must be for the consumer's personal consumption and not for resale; and (4) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary.
- (h) The serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq, and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto.
- (i) The serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or his agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance.

Sec. 2.