

As Amended by House Committee

Session of 2018

HOUSE BILL No. 2476

By Committee on Federal and State Affairs

1-17

1 AN ACT concerning alcoholic beverages; relating to the definition of
2 alcoholic liquor, including alcoholic candy and confectionary products
3 to the definition of alcoholic liquor; **relating to microbreweries;**
4 **authorizing the on-premises sale of certain large containers of beer**
5 **for off-premises consumption, labeling requirements thereof;**
6 amending K.S.A. 2016 Supp. 41-102, as amended by section 4 of
7 chapter 56 of the 2017 Session Laws of Kansas and K.S.A. 2017 Supp.
8 41-102 **and 41-308b** and repealing the existing sections; also repealing
9 K.S.A. 2017 Supp. 41-102, as amended by section 1 of this act.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 2017 Supp. 41-102 is hereby amended to read as
13 follows: 41-102. As used in this act, unless the context clearly requires
14 otherwise:

15 (a) "Alcohol" means the product of distillation of any fermented
16 liquid, whether rectified or diluted, whatever its origin, and includes
17 synthetic ethyl alcohol but does not include denatured alcohol or wood
18 alcohol.

19 (b) "*Alcoholic candy*" means any candy or other confectionary
20 product with an alcohol content greater than 0.5% alcohol by volume.

21 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, *alcoholic*
22 *candy* and every liquid or solid, patented or not, containing alcohol, spirits,
23 wine or beer and capable of being consumed ~~as a beverage~~ by a human
24 being, but shall not include any cereal malt beverage.

25 ~~(e)~~ (d) "Beer" means a beverage, containing more than 3.2% alcohol
26 by weight, obtained by alcoholic fermentation of an infusion or concoction
27 of barley, or other grain, malt and hops in water and includes beer, ale,
28 stout, lager beer, porter and similar beverages having such alcoholic
29 content.

30 ~~(d)~~ (e) "Caterer" has the meaning provided by K.S.A. 41-2601, and
31 amendments thereto.

32 ~~(e)~~ (f) "Cereal malt beverage" has the meaning provided by K.S.A.
33 41-2701, and amendments thereto.

34 ~~(f)~~ (g) "Club" has the meaning provided by K.S.A. 41-2601, and
35 amendments thereto.

36 ~~(g)~~ (h) "Director" means the director of alcoholic beverage control of

1 the department of revenue.

2 ~~(h)~~ (i) "Distributor" means the person importing or causing to be
3 imported into the state, or purchasing or causing to be purchased within
4 the state, alcoholic liquor for sale or resale to retailers licensed under this
5 act or cereal malt beverage for sale or resale to retailers licensed under
6 K.S.A. 41-2702, and amendments thereto.

7 ~~(i)~~ (j) "Domestic beer" means beer which contains not more than ~~10%~~
8 **15%** alcohol by weight and which is manufactured in this state.

9 ~~(j)~~ (k) "Domestic fortified wine" means wine which contains more
10 than 14%, but not more than 20% alcohol by volume and which is
11 manufactured in this state.

12 ~~(k)~~ (l) "Domestic table wine" means wine which contains not more
13 than 14% alcohol by volume and which is manufactured without
14 rectification or fortification in this state.

15 ~~(l)~~ (m) "Drinking establishment" has the meaning provided by K.S.A.
16 41-2601, and amendments thereto.

17 ~~(m)~~ (n) "Farm winery" means a winery licensed by the director to
18 manufacture, store and sell domestic table wine and domestic fortified
19 wine.

20 ~~(n)~~ (o) "Hard cider" means any alcoholic beverage that:

21 (1) Contains less than 8.5% alcohol by volume;

22 (2) has a carbonation level that does not exceed 6.4 grams per liter;
23 and

24 (3) is obtained by the normal alcoholic fermentation of the juice of
25 sound, ripe apples or pears, including such beverages containing sugar
26 added for the purpose of correcting natural deficiencies.

27 ~~(o)~~ (p) "Manufacture" means to distill, rectify, ferment, brew, make,
28 mix, concoct, process, blend, bottle or fill an original package with any
29 alcoholic liquor, beer or cereal malt beverage.

30 ~~(p)~~ (q) (1) "Manufacturer" means every brewer, fermenter, distiller,
31 rectifier, wine maker, blender, processor, bottler or person who fills or
32 refills an original package and others engaged in brewing, fermenting,
33 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
34 beverage.

35 (2) "Manufacturer" does not include a microbrewery, microdistillery
36 or a farm winery.

37 ~~(q)~~ (r) "Microbrewery" means a brewery licensed by the director to
38 manufacture, store and sell domestic beer and hard cider.

39 ~~(r)~~ (s) "Microdistillery" means a facility which produces spirits from
40 any source or substance that is licensed by the director to manufacture,
41 store and sell spirits.

42 ~~(s)~~ (t) "Minor" means any person under 21 years of age.

43 ~~(t)~~ (u) "Nonbeverage user" means any manufacturer of any of the

1 products set forth and described in K.S.A. 41-501, and amendments
2 thereto, when the products contain alcohol or wine, and all laboratories
3 using alcohol for nonbeverage purposes.

4 ~~(tt)~~ (v) "Original package" means any bottle, flask, jug, can, cask,
5 barrel, keg, hogshead or other receptacle or container whatsoever, used,
6 corked or capped, sealed and labeled by the manufacturer of alcoholic
7 liquor, to contain and to convey any alcoholic liquor. Original container
8 does not include a sleeve.

9 ~~(tv)~~ (w) "Person" means any natural person, corporation, partnership,
10 trust or association.

11 ~~(tw)~~ (x) "Powdered alcohol" means alcohol that is prepared in a
12 powdered or crystal form for either direct use or for reconstitution in a
13 nonalcoholic liquid.

14 ~~(tx)~~ (y) "Primary American source of supply" means the manufacturer,
15 the owner of alcoholic liquor at the time it becomes a marketable product
16 or the manufacturer's or owner's exclusive agent who, if the alcoholic
17 liquor cannot be secured directly from such manufacturer or owner by
18 American wholesalers, is the source closest to such manufacturer or owner
19 in the channel of commerce from which the product can be secured by
20 American wholesalers.

21 ~~(ty)~~ (z) (1) "Retailer" means a person who sells at retail, or offers for
22 sale at retail, alcoholic liquors.

23 (2) "Retailer" does not include a microbrewery, microdistillery or a
24 farm winery.

25 ~~(tz)~~ (aa) "Sale" means any transfer, exchange or barter in any manner
26 or by any means whatsoever for a consideration and includes all sales
27 made by any person, whether principal, proprietor, agent, servant or
28 employee.

29 ~~(ta)~~ (bb) "Salesperson" means any natural person who:

30 (1) Procures or seeks to procure an order, bargain, contract or
31 agreement for the sale of alcoholic liquor or cereal malt beverage; or

32 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
33 beverage, or in promoting the business of any person, firm or corporation
34 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
35 beverage, whether the seller resides within the state of Kansas and sells to
36 licensed buyers within the state of Kansas, or whether the seller resides
37 without the state of Kansas and sells to licensed buyers within the state of
38 Kansas.

39 ~~(tb)~~ (cc) "Secretary" means the secretary of revenue.

40 ~~(te)~~ (dd) (1) "Sell at retail" and "sale at retail" refer to and mean sales
41 for use or consumption and not for resale in any form and sales to clubs,
42 licensed drinking establishments, licensed caterers or holders of temporary
43 permits.

1 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by
2 a distributor, a microbrewery, a farm winery, a licensed club, a licensed
3 drinking establishment, a licensed caterer or a holder of a temporary
4 permit.

5 ~~(dd)~~ (ee) "To sell" includes to solicit or receive an order for, to keep
6 or expose for sale and to keep with intent to sell.

7 ~~(ee)~~ (ff) "Sleeve" means a package of two or more 50-milliliter (3.2-
8 fluid-ounce) containers of spirits.

9 ~~(ff)~~ (gg) "Spirits" means any beverage which contains alcohol
10 obtained by distillation, mixed with water or other substance in solution,
11 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
12 such liquors when rectified, blended or otherwise mixed with alcohol or
13 other substances.

14 ~~(gg)~~ (hh) "Supplier" means a manufacturer of alcoholic liquor or
15 cereal malt beverage or an agent of such manufacturer, other than a
16 salesperson.

17 ~~(hh)~~ (ii) "Temporary permit" has the meaning provided by K.S.A. 41-
18 2601, and amendments thereto.

19 ~~(ii)~~ (jj) "Wine" means any alcoholic beverage obtained by the normal
20 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or
21 other agricultural products, including such beverages containing added
22 alcohol or spirits or containing sugar added for the purpose of correcting
23 natural deficiencies. The term "wine" shall include hard cider and any
24 other product that is commonly known as a subset of wine.

25 Sec. 2. On and after April 1, 2019 K.S.A. 2016 Supp. 41-102, as
26 amended by section 4 of chapter 56 of the 2017 Session Laws of Kansas,
27 is hereby amended to read as follows: 41-102. As used in this act, unless
28 the context clearly requires otherwise:

29 (a) "Alcohol" means the product of distillation of any fermented
30 liquid, whether rectified or diluted, whatever its origin, and includes
31 synthetic ethyl alcohol but does not include denatured alcohol or wood
32 alcohol.

33 (b) "*Alcoholic candy*" means any candy or other confectionary
34 product with an alcohol content greater than 0.5% alcohol by volume.

35 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, *alcoholic*
36 *candy* and every liquid or solid, patented or not, containing alcohol, spirits,
37 wine or beer and capable of being consumed ~~as a beverage~~ by a human
38 being, but shall not include any cereal malt beverage.

39 ~~(e)~~ (d) "Beer" means a beverage, containing more than 3.2% alcohol
40 by weight, obtained by alcoholic fermentation of an infusion or concoction
41 of barley, or other grain, malt and hops in water and includes beer, ale,
42 stout, lager beer, porter and similar beverages having such alcoholic
43 content.

1 ~~(d)~~ (e) "Caterer" has the meaning provided by K.S.A. 41-2601, and
2 amendments thereto.

3 ~~(e)~~ (f) "Cereal malt beverage" has the meaning provided by K.S.A.
4 41-2701, and amendments thereto.

5 ~~(f)~~ (g) "Club" has the meaning provided by K.S.A. 41-2601, and
6 amendments thereto.

7 ~~(g)~~ (h) "Director" means the director of alcoholic beverage control of
8 the department of revenue.

9 ~~(h)~~ (i) "Distributor" means the person importing or causing to be
10 imported into the state, or purchasing or causing to be purchased within
11 the state, alcoholic liquor for sale or resale to retailers licensed under this
12 act or cereal malt beverage for sale or resale to retailers licensed under
13 K.S.A. 41-2702, and amendments thereto.

14 ~~(i)~~ (j) "Domestic beer" means beer which contains not more than ~~10%~~
15 **15%** alcohol by weight and which is manufactured in this state.

16 ~~(j)~~ (k) "Domestic fortified wine" means wine which contains more
17 than 14%, but not more than 20% alcohol by volume and which is
18 manufactured in this state.

19 ~~(k)~~ (l) "Domestic table wine" means wine which contains not more
20 than 14% alcohol by volume and which is manufactured without
21 rectification or fortification in this state.

22 ~~(l)~~ (m) "Drinking establishment" has the meaning provided by K.S.A.
23 41-2601, and amendments thereto.

24 ~~(m)~~ (n) "Farm winery" means a winery licensed by the director to
25 manufacture, store and sell domestic table wine and domestic fortified
26 wine.

27 ~~(n)~~ (o) "Hard cider" means any alcoholic beverage that:

28 (1) Contains less than 8.5% alcohol by volume;

29 (2) has a carbonation level that does not exceed 6.4 grams per liter;
30 and

31 (3) is obtained by the normal alcoholic fermentation of the juice of
32 sound, ripe apples or pears, including such beverages containing sugar
33 added for the purpose of correcting natural deficiencies.

34 ~~(o)~~ (p) "Manufacture" means to distill, rectify, ferment, brew, make,
35 mix, concoct, process, blend, bottle or fill an original package with any
36 alcoholic liquor, beer or cereal malt beverage.

37 ~~(p)~~ (q) (1) "Manufacturer" means every brewer, fermenter, distiller,
38 rectifier, wine maker, blender, processor, bottler or person who fills or
39 refills an original package and others engaged in brewing, fermenting,
40 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
41 beverage.

42 (2) "Manufacturer" does not include a microbrewery, microdistillery
43 or a farm winery.

1 ~~(q)~~ (r) "Microbrewery" means a brewery licensed by the director to
2 manufacture, store and sell domestic beer and hard cider.

3 ~~(r)~~ (s) "Microdistillery" means a facility which produces spirits from
4 any source or substance that is licensed by the director to manufacture,
5 store and sell spirits.

6 ~~(s)~~ (t) "Minor" means any person under 21 years of age.

7 ~~(t)~~ (u) "Nonbeverage user" means any manufacturer of any of the
8 products set forth and described in K.S.A. 41-501, and amendments
9 thereto, when the products contain alcohol or wine, and all laboratories
10 using alcohol for nonbeverage purposes.

11 ~~(u)~~ (v) "Original package" means any bottle, flask, jug, can, cask,
12 barrel, keg, hogshead or other receptacle or container whatsoever, used,
13 corked or capped, sealed and labeled by the manufacturer of alcoholic
14 liquor, to contain and to convey any alcoholic liquor. Original container
15 does not include a sleeve.

16 ~~(v)~~ (w) "Person" means any natural person, corporation, partnership,
17 trust or association.

18 ~~(w)~~ (x) "Powdered alcohol" means alcohol that is prepared in a
19 powdered or crystal form for either direct use or for reconstitution in a
20 nonalcoholic liquid.

21 ~~(x)~~ (y) "Primary American source of supply" means the manufacturer,
22 the owner of alcoholic liquor at the time it becomes a marketable product
23 or the manufacturer's or owner's exclusive agent who, if the alcoholic
24 liquor cannot be secured directly from such manufacturer or owner by
25 American wholesalers, is the source closest to such manufacturer or owner
26 in the channel of commerce from which the product can be secured by
27 American wholesalers.

28 ~~(y)~~ (z) (1) "Retailer" means a person who is licensed under the
29 Kansas liquor control act and sells at retail, or offers for sale at retail,
30 alcoholic liquors or cereal malt beverages.

31 (2) "Retailer" does not include a microbrewery, microdistillery or a
32 farm winery.

33 ~~(z)~~ (aa) "Sale" means any transfer, exchange or barter in any manner
34 or by any means whatsoever for a consideration and includes all sales
35 made by any person, whether principal, proprietor, agent, servant or
36 employee.

37 ~~(aa)~~ (bb) "Salesperson" means any natural person who:

38 (1) Procures or seeks to procure an order, bargain, contract or
39 agreement for the sale of alcoholic liquor or cereal malt beverage; or

40 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
41 beverage, or in promoting the business of any person, firm or corporation
42 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
43 beverage, whether the seller resides within the state of Kansas and sells to

1 licensed buyers within the state of Kansas, or whether the seller resides
2 without the state of Kansas and sells to licensed buyers within the state of
3 Kansas.

4 ~~(bb)~~ (cc) "Secretary" means the secretary of revenue.

5 ~~(ee)~~ (dd) (1) "Sell at retail" and "sale at retail" refer to and mean sales
6 for use or consumption and not for resale in any form and sales to clubs,
7 licensed drinking establishments, licensed caterers or holders of temporary
8 permits.

9 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by
10 a distributor, a microbrewery, a farm winery, a licensed club, a licensed
11 drinking establishment, a licensed caterer or a holder of a temporary
12 permit.

13 ~~(dd)~~ (ee) "To sell" includes to solicit or receive an order for, to keep
14 or expose for sale and to keep with intent to sell.

15 ~~(ee)~~ (ff) "Sleeve" means a package of two or more 50-milliliter (3.2-
16 fluid-ounce) containers of spirits.

17 ~~(ff)~~ (gg) "Spirits" means any beverage which contains alcohol
18 obtained by distillation, mixed with water or other substance in solution,
19 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
20 such liquors when rectified, blended or otherwise mixed with alcohol or
21 other substances.

22 ~~(gg)~~ (hh) "Supplier" means a manufacturer of alcoholic liquor or
23 cereal malt beverage or an agent of such manufacturer, other than a
24 salesperson.

25 ~~(hh)~~ (ii) "Temporary permit" has the meaning provided by K.S.A. 41-
26 2601, and amendments thereto.

27 ~~(ii)~~ (jj) "Wine" means any alcoholic beverage obtained by the normal
28 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or
29 other agricultural products, including such beverages containing added
30 alcohol or spirits or containing sugar added for the purpose of correcting
31 natural deficiencies. The term "wine" shall include hard cider and any
32 other product that is commonly known as a subset of wine.

33 **Sec. 3. K.S.A. 2017 Supp. 41-308b is hereby amended to read as**
34 **follows: 41-308b. (a) A microbrewery license shall allow:**

35 **(1) The manufacture of not less than 100 nor more than 60,000**
36 **barrels of domestic beer during the calendar year and the storage**
37 **thereof, if, however, the licensee holds a 10% or greater ownership**
38 **interest in one or more entities that also hold a microbrewery license,**
39 **then the aggregate number of barrels of domestic beer manufactured**
40 **by all such licensees with such common ownership shall not exceed the**
41 **60,000 barrel limit;**

42 **(2) the manufacture in the aggregate of not more than 100,000**
43 **gallons of hard cider during the calendar year and the storage thereof;**

1 **(3) the sale to beer distributors of beer and the sale to wine**
2 **distributors of hard cider, manufactured by the licensee;**

3 **(4) the sale, on the licensed premises in the original unopened**
4 **container to consumers for consumption off the licensed premises, of**
5 **beer and hard cider manufactured by the licensee;**

6 **(5) the sale, on the licensed premises in refillable and sealable**
7 **containers to consumers for consumption off the licensed premises, of beer**
8 **manufactured by the licensee, subject to the following conditions:**

9 **(A) Containers described in this paragraph shall contain not less**
10 **than 32 fluid ounces and not more than 64 fluid ounces of beer; and**

11 **(B) the licensee shall affix a label to all containers sold pursuant to**
12 **this paragraph clearly indicating the licensee's name and the name and**
13 **type of beer contained in such container;**

14 **(6) the serving free of charge on the licensed premises and at**
15 **special events, monitored and regulated by the division of alcoholic**
16 **beverage control, of samples of beer and hard cider manufactured by**
17 **the licensee, if the premises are located in a county where the sale of**
18 **alcoholic liquor is permitted by law in licensed drinking**
19 **establishments;**

20 ~~(6)~~**(7) if the premises is also licensed as a club or drinking**
21 **establishment, the sale and transfer of domestic beer to such club or**
22 **drinking establishment and the sale of domestic beer and other**
23 **alcoholic liquor for consumption on the licensed premises as**
24 **authorized by the club and drinking establishment act;**

25 ~~(7)~~**(8) if the premises is also licensed as a caterer, the sale of**
26 **domestic beer and other alcoholic liquor for consumption on**
27 **unlicensed premises as authorized by the club and drinking**
28 **establishment act; and**

29 ~~(8)~~**(9) if the licensee holds a 10% or greater ownership interest in**
30 **one or more entities that also hold a microbrewery license, the**
31 **domestic beer may be manufactured and transferred for sale or**
32 **storage among such microbrewery licensees with such common**
33 **ownership.**

34 **(b) Not less than 30% of the products utilized in the manufacture**
35 **of hard cider by a microbrewery shall be grown in Kansas except**
36 **when a lesser proportion is authorized by the director based upon the**
37 **director's findings and judgment. The production requirement of this**
38 **subsection shall be determined based on the annual production of**
39 **domestic hard cider.**

40 **(c) Upon application and payment of the fee prescribed by K.S.A.**
41 **41-310, and amendments thereto, by a microbrewery licensee, the**
42 **director may issue not to exceed one microbrewery packaging and**
43 **warehousing facility license to the microbrewery licensee. A**

1 microbrewery packaging and warehousing facility license shall allow:

2 (1) The transfer, from the licensed premises of the microbrewery
3 to the licensed premises of the microbrewery packaging and
4 warehousing facility, of beer and hard cider manufactured by the
5 licensee, for the purpose of packaging or storage, or both;

6 (2) the transfer, from the licensed premises of the microbrewery
7 packaging and warehousing facility to the licensed premises of any
8 microbrewery of such licensee, of beer manufactured by the licensee;

9 (3) the removal from the licensed premises of the microbrewery
10 packaging and warehousing facility of beer manufactured by the
11 licensee for the purpose of delivery to a licensed beer wholesaler; and

12 (4) the removal from the licensed premises of the microbrewery
13 packaging and warehousing facility of hard cider manufactured by the
14 licensee for the purpose of delivery to a licensed wine distributor.

15 (d) A microbrewery may sell domestic beer in the original
16 unopened container to consumers for consumption off the licensed
17 premises at any time between 6 a.m. and 12 midnight on any day
18 except Sunday and between 11 a.m. and 7 p.m. on Sunday. If
19 authorized by subsection (a), a microbrewery may serve samples of
20 domestic beer and serve and sell domestic beer and other alcoholic
21 liquor for consumption on the licensed premises at any time when a
22 club or drinking establishment is authorized to serve and sell alcoholic
23 liquor.

24 (e) The director may issue to the Kansas state fair or any bona
25 fide group of brewers a permit to import into this state small
26 quantities of beer. Such beer shall be used only for bona fide
27 educational and scientific tasting programs and shall not be resold.
28 Such beer shall not be subject to the tax imposed by K.S.A. 41-501,
29 and amendments thereto. The permit shall identify specifically the
30 brand and type of beer to be imported, the quantity to be imported,
31 the tasting programs for which the beer is to be used and the times
32 and locations of such programs. The secretary shall adopt rules and
33 regulations governing the importation of beer pursuant to this
34 subsection and the conduct of tasting programs for which such beer is
35 imported.

36 (f) A microbrewery license or microbrewery packaging and
37 warehousing facility license shall apply only to the premises described
38 in the application and in the license issued and only one location shall
39 be described in the license.

40 (g) No microbrewery shall:

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

43 (2) permit any employee of the licensee who is under the age of 21

1 years to work on the licensed premises at any time when not under the
2 on-premises supervision of either the licensee or an employee of the
3 licensee who is 21 years of age or over;

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

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

8 (h) Whenever a microbrewery licensee is convicted of a violation
9 of the Kansas liquor control act, the director may revoke the licensee's
10 license and all fees paid for the license in accordance with the Kansas
11 administrative procedure act.

12 ~~Sec. 3.~~ 4. K.S.A. 2017 Supp. 41-102 ~~is~~ and 41-308b are hereby
13 repealed.

14 ~~Sec. 4.~~ 5. On and after April 1, 2019, K.S.A. 2016 Supp. 41-102, as
15 amended by section 4 of chapter 56 of the 2017 Session Laws of Kansas,
16 and K.S.A. 2017 Supp. 41-102, as amended by section 1 of this act are
17 hereby repealed.

18 ~~Sec. 5.~~ 6. This act shall take effect and be in force from and after its
19 publication in the statute book.