

HOUSE BILL No. 2252

By Committee on Federal and State Affairs

2-5

1 AN ACT concerning alcoholic liquor; relating to wineries; special
2 shipping order licensees; creating fulfillment house licensure;
3 authorizing the storage and shipment of alcoholic liquors for a special
4 order shipping licensee; amending K.S.A. 2020 Supp. 41-102 and
5 repealing the existing section.
6

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

8 New Section 1. (a) Before making or causing any shipment of
9 alcoholic liquor to Kansas residents, a fulfillment house shall pay a \$100
10 license fee and obtain such license that will be applicable for all locations
11 that are involved in the shipping process to Kansas residents. A fulfillment
12 house license shall commence on the date the license is issued by the
13 director and expire two years after such date. The holder of a fulfillment
14 house license may only provide services for the warehousing, packaging
15 and shipping of alcoholic liquors produced by, and belonging to, a special
16 order shipping licensee in accordance with K.S.A. 41-350, and
17 amendments thereto. A fulfillment house licensee shall make reasonable
18 efforts to confirm that any winery that they ship alcoholic liquor for holds
19 a special order shipping license and may rely on the representations of
20 each such winery for such assurance.

21 (b) As part of a fulfillment house license application, the applicant
22 shall provide:

23 (1) All locations under the license from which lawful alcoholic
24 liquors shall be shipped; and

25 (2) any other information as required by rules and regulations
26 adopted by the director and contained in the fulfillment house license
27 application form established by the director.

28 (c) If the holder of the license is an out-of-state entity, the licensee
29 shall be deemed to have appointed the secretary of state as the resident
30 agent and representative of the licensee to accept service of process from
31 the secretary of revenue, the director and the courts of this state concerning
32 enforcement of this section, K.S.A. 41-501 et seq., and amendments
33 thereto, and any rules and regulations adopted thereunder and to accept
34 service of any notice or order provided for in the liquor control act.

35 (d) (1) A fulfillment house licensee shall ensure all containers of
36 alcoholic liquors shipped directly to an individual in this state are labeled

1 with the name, address and license number of the fulfillment house
2 licensee and special order shipping licensee. All such containers shall
3 contain a conspicuously printed statement of "SIGNATURE OF PERSON
4 AGE 21 OR OLDER REQUIRED FOR DELIVERY".

5 (2) All containers of alcoholic liquors shipped directly to a resident of
6 this state shall be shipped using a common carrier pursuant to K.S.A. 41-
7 725, and amendments thereto.

8 (e) (1) A fulfillment house licensee shall:

9 (A) Maintain records of all shipments for a minimum of three years
10 after the shipment date, that shall include the:

11 (i) Name, address and license number of the special order shipping
12 licensee;

13 (ii) name and license number of the express company or common
14 carrier;

15 (iii) date of each shipment;

16 (iv) carrier tracking number;

17 (v) name and address of the consignee of such alcoholic liquors; and

18 (vi) weight of the package and product type of alcoholic liquors
19 shipped.

20 (B) Submit these records as an electronic report to the director
21 monthly in the form and format prescribed by the director.

22 (2) Reports submitted pursuant to this subsection shall be open
23 records available for public inspection in accordance with the open records
24 act. Any information relating to the name or address of a consignee of any
25 alcoholic liquors shall be redacted from the reports that are made available
26 for public inspection. The provisions of this paragraph providing for the
27 confidentiality of certain public records shall expire on July 1, 2026,
28 unless the legislature reviews and reenacts such provisions in accordance
29 with K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

30 (f) A fulfillment house that willfully fails, neglects or refuses to file
31 any report pursuant to subsection (e) shall be subject to a civil penalty of
32 not more than \$100. After notice and an opportunity for hearing in
33 accordance with the Kansas administrative procedure act, the director may
34 refuse to issue or renew or may revoke a fulfillment house license upon a
35 finding that the licensee has failed to comply with any provision of this
36 section.

37 (g) The secretary of revenue shall adopt rules and regulations to
38 implement, administer and enforce the provisions of this section.

39 (h) The provisions of this section shall be a part of and supplemental
40 to the Kansas liquor control act.

41 Sec. 2. K.S.A. 2020 Supp. 41-102 is hereby amended to read as
42 follows: 41-102. As used in this act, unless the context clearly requires
43 otherwise:

- 1 (a) "Alcohol" means the product of distillation of any fermented
2 liquid, whether rectified or diluted, whatever its origin, and includes
3 synthetic ethyl alcohol but does not include denatured alcohol or wood
4 alcohol.
- 5 (b) "Alcoholic candy" means:
- 6 (1) For purposes of manufacturing, any candy or other confectionery
7 product with an alcohol content greater than 0.5% alcohol by volume; and
8 (2) for purposes of sale at retail, any candy or other confectionery
9 product with an alcohol content greater than 1% alcohol by volume.
- 10 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, alcoholic
11 candy and every liquid or solid, patented or not, containing alcohol, spirits,
12 wine or beer and capable of being consumed by a human being, but shall
13 not include any cereal malt beverage.
- 14 (d) "Beer" means a beverage, containing more than 3.2% alcohol by
15 weight, obtained by alcoholic fermentation of an infusion or concoction of
16 barley, or other grain, malt and hops in water and includes beer, ale, stout,
17 lager beer, porter and similar beverages having such alcoholic content.
- 18 (e) "Caterer" ~~has the meaning provided~~ *means the same as defined* by
19 K.S.A. 41-2601, and amendments thereto.
- 20 (f) "Cereal malt beverage" ~~has the meaning provided~~ *means the same*
21 *as defined* by K.S.A. 41-2701, and amendments thereto.
- 22 (g) "Club" ~~has the meaning provided~~ *means the same as defined* by
23 K.S.A. 41-2601, and amendments thereto.
- 24 (h) "Director" means the director of alcoholic beverage control of the
25 department of revenue.
- 26 (i) "Distributor" means the person importing or causing to be
27 imported into the state, or purchasing or causing to be purchased within
28 the state, alcoholic liquor for sale or resale to retailers licensed under this
29 act or cereal malt beverage for sale or resale to retailers licensed under
30 K.S.A. 41-2702, and amendments thereto.
- 31 (j) "Domestic beer" means beer which contains not more than 15%
32 alcohol by weight and which is manufactured in this state.
- 33 (k) "Domestic fortified wine" means wine which contains more than
34 14%, but not more than 20% alcohol by volume and which is
35 manufactured in this state.
- 36 (l) "Domestic table wine" means wine which contains not more than
37 14% alcohol by volume and which is manufactured without rectification or
38 fortification in this state.
- 39 (m) "Drinking establishment" ~~has the meaning provided~~ *means the*
40 *same as defined* by K.S.A. 41-2601, and amendments thereto.
- 41 (n) "Farm winery" means a winery licensed by the director to
42 manufacture, store and sell domestic table wine and domestic fortified
43 wine.

1 (o) *"Fulfillment house" means all locations and facilities for any in-*
2 *state or out-of-state entity that handles logistics, including warehousing,*
3 *packaging, order fulfillment or shipping services, on behalf of the holder*
4 *of a special order shipping license issued pursuant to K.S.A. 41-350, and*
5 *amendments thereto.*

6 (p) "Hard cider" means any alcoholic beverage that:

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

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

9 and

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

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

16 ~~(q)~~(r) (1) "Manufacturer" means every brewer, fermenter, distiller,
17 rectifier, wine maker, blender, processor, bottler or person who fills or
18 refills an original package and others engaged in brewing, fermenting,
19 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
20 beverage.

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

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

25 ~~(s)~~(t) "Microdistillery" means a facility which produces spirits from
26 any source or substance that is licensed by the director to manufacture,
27 store and sell spirits.

28 ~~(t)~~(u) "Minor" means any person under 21 years of age.

29 ~~(u)~~(v) "Nonbeverage user" means any manufacturer of any of the
30 products set forth and described in K.S.A. 41-501, and amendments
31 thereto, when the products contain alcohol or wine, and all laboratories
32 using alcohol for nonbeverage purposes.

33 ~~(v)~~(w) "Original package" means any bottle, flask, jug, can, cask,
34 barrel, keg, hogshead or other receptacle or container whatsoever, used,
35 corked or capped, sealed and labeled by the manufacturer of alcoholic
36 liquor, to contain and to convey any alcoholic liquor. Original container
37 does not include a sleeve.

38 ~~(w)~~(x) "Person" means any natural person, corporation, partnership,
39 trust or association.

40 ~~(x)~~(y) "Powdered alcohol" means alcohol that is prepared in a
41 powdered or crystal form for either direct use or for reconstitution in a
42 nonalcoholic liquid.

43 ~~(y)~~(z) "Primary American source of supply" means the manufacturer,

1 the owner of alcoholic liquor at the time it becomes a marketable product
 2 or the manufacturer's or owner's exclusive agent who, if the alcoholic
 3 liquor cannot be secured directly from such manufacturer or owner by
 4 American wholesalers, is the source closest to such manufacturer or owner
 5 in the channel of commerce from which the product can be secured by
 6 American wholesalers.

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

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

12 ~~(aa)~~(bb) "Sale" means any transfer, exchange or barter in any manner
 13 or by any means whatsoever for a consideration and includes all sales
 14 made by any person, whether principal, proprietor, agent, servant or
 15 employee.

16 ~~(bb)~~(cc) "Salesperson" means any natural person who:

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

19 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
 20 beverage, or in promoting the business of any person, firm or corporation
 21 engaged in the manufacturing and selling of alcoholic liquor or cereal malt
 22 beverage, whether the seller resides within the state of Kansas and sells to
 23 licensed buyers within the state of Kansas, or whether the seller resides
 24 without the state of Kansas and sells to licensed buyers within the state of
 25 Kansas.

26 ~~(ee)~~(dd) "Sample" means a serving of alcoholic liquor that contains
 27 not more than: (1) One-half ounce of distilled spirits; (2) one ounce of
 28 wine; or (3) two ounces of beer or cereal malt beverage. A sample of a
 29 mixed alcoholic beverage shall contain not more than 1/2 ounce of distilled
 30 spirits.

31 ~~(dd)~~(ee) "Secretary" means the secretary of revenue.

32 ~~(ee)~~(ff) (1) "Sell at retail" and "sale at retail" refer to and mean sales
 33 for use or consumption and not for resale in any form and sales to clubs,
 34 licensed drinking establishments, licensed caterers or holders of temporary
 35 permits.

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

40 ~~(ff)~~(gg) "To sell" includes to solicit or receive an order for, to keep or
 41 expose for sale and to keep with intent to sell.

42 ~~(gg)~~(hh) "Sleeve" means a package of two or more 50-milliliter *or*
 43 (3.2-fluid-ounce) containers of spirits.

1 ~~(hh)~~(ii) "Spirits" means any beverage which contains alcohol
2 obtained by distillation, mixed with water or other substance in solution,
3 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
4 such liquors when rectified, blended or otherwise mixed with alcohol or
5 other substances.

6 ~~(ii)~~(jj) "Supplier" means a manufacturer of alcoholic liquor or cereal
7 malt beverage or an agent of such manufacturer, other than a salesperson.

8 ~~(jj)~~(kk) "Temporary permit" ~~has the meaning provided~~ means the
9 same as defined by K.S.A. 41-2601, and amendments thereto.

10 ~~(kk)~~(ll) "Wine" means any alcoholic beverage obtained by the normal
11 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or
12 other agricultural products, including such beverages containing added
13 alcohol or spirits or containing sugar added for the purpose of correcting
14 natural deficiencies. ~~The term "Wine" shall include~~ includes hard cider and
15 any other product that is commonly known as a subset of wine.

16 Sec. 3. K.S.A. 2020 Supp. 41-102 is hereby repealed.

17 Sec. 4. This act shall take effect and be in force from and after its
18 publication in the statute book.