AN ACT concerning alcoholic beverages; relating to sales of cereal malt beverage; relating to retailer licenses under the Kansas liquor control act; amending K.S.A. 41-308 and K.S.A. 2011 Supp. 41-102, 41-2703, 41-2704 and 41-2708 and repealing the existing sections; also repealing K.S.A. 41-103.

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

Section 1. K.S.A. 2011 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

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

(b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

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

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

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

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

(g) "Director" means the director of alcoholic beverage control of the department of revenue.

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

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

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

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

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

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

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

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

(2) "Manufacturer" does not include a microbrewery or a farm
winery.

(p) "Microbrewery" means a brewery licensed by the director to
manufacture, store and sell domestic beer.

(q) "Minor" means any person under 21 years of age.

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

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

(t) "Person" means any natural person, corporation, partnership, trust
or association.

(u) "Primary American source of supply" means the manufacturer, the
owner of alcoholic liquor at the time it becomes a marketable product or
the manufacturer's or owner's exclusive agent who, if the alcoholic liquor
cannot be secured directly from such manufacturer or owner by American
wholesalers, is the source closest to such manufacturer or owner in the
channel of commerce from which the product can be secured by American
wholesalers.
(v) (1) "Retailer" means a person who sells at retail, or offers for sale at retail, alcoholic liquors and cereal malt beverage.

(2) "Retailer" does not include a microbrewery or a farm winery.

(w) "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

(x) "Salesperson" means any natural person who:

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

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

(y) "Secretary" means the secretary of revenue.

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

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

(aa) "To sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

(bb) "Sleeve" means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

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

(dd) "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

(ee) "Temporary permit" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(ff) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.
Sec. 2. K.S.A. 41-308 is hereby amended to read as follows: 41-308.

(a) A retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor for use or consumption off of and away from the premises specified in such license. A retailer's license shall permit sale and delivery of alcoholic liquor only on the licensed premises and shall not permit sale of alcoholic liquor for resale in any form, except that a licensed retailer may:

(1) Sell alcoholic liquor to a temporary permit holder for resale by such permit holder; and

(2) sell and deliver alcoholic liquor to a caterer or to the licensed premises of a club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such club, establishment or caterer.

(b) The holder of a retailer's license shall not sell, offer for sale, give away or permit to be sold, offered for sale or given away in or from the premises specified in such license any service or thing of value whatsoever except alcoholic liquor in the original package, except that a licensed retailer may:

(1) Charge a delivery fee for delivery to a club, drinking establishment or caterer pursuant to subsection (a);

(2) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the retailer is selected as a lottery retailer;

(3) include in the sale of alcoholic liquor any goods included by the manufacturer in packaging with the alcoholic liquor, subject to the approval of the director; and

(4) distribute to the public, without charge, consumer advertising specialities bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialities so that they are not conditioned on or an inducement to the purchase of alcoholic liquor.

(c) No licensed retailer shall furnish any entertainment in such premises or permit any pinball machine or game of skill or chance to be located in or on such premises.

(d) A retailer's license shall allow the licensee to store alcoholic liquor in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor to consumers in a chilled condition.

(e) If the licensee also holds a retailer's license to sell cereal malt beverage in accordance with the provisions of K.S.A. 41-2701 et seq., and amendments thereto, a retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, cereal malt beverage for use or consumption off of and away from the premises specified in such license. The sale or resale of cereal malt beverage by the
licensee shall be subject to the provisions of this section applicable to the
sale or resale of alcoholic liquor.

Sec. 3. K.S.A. 2011 Supp. 41-2703 is hereby amended to read as
follows: 41-2703. (a) After examination of an application for a retailer's
license, the board of county commissioners or the director shall, if they
approve the same, issue a license to the applicant. The governing body of
the city shall, if the applicant is qualified as provided by law, issue a
license to such applicant.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of the county in which the place of
business covered by the license is located, has not been a resident of such
county for at least six months or has not been a resident in good faith of
the state of Kansas.

(2) A person who has not been a resident of this state for at least one
year immediately preceding application for a retailer's license.

(3) A person who is not of good character and reputation in the
community in which the person resides.

(4) A person who is not a citizen of the United States.

(5) A person who, within two years immediately preceding the date
of application approval, has been convicted of, released from incarceration
for or released from probation or parole for a felony or any crime
involving moral turpitude, drunkenness, driving a motor vehicle while
under the influence of intoxicating liquor or violation of any other
intoxicating liquor law of any state or of the United States.

(6) A partnership, unless all the members of the partnership are
otherwise qualified to obtain a license.

(7) A corporation, if any manager, officer or director thereof, or any
stockholder owning in the aggregate more than 25% of the stock of such
corporation, would be ineligible to receive a license hereunder for any
reason other than the citizenship and residency requirements.

(8) A person whose place of business is conducted by a manager or
agent unless the manager or agent possesses all the qualifications of a
licensee.

(9) A person whose spouse would be ineligible to receive a retailer's
license for any reason other than citizenship, residence requirements or
age, except that this subsection (b)(9) shall not apply in determining
eligibility for a renewal license.

(10) A person whose spouse has been convicted of a felony or other
crime which would disqualify a person from licensure under this section
and such felony or other crime was committed during the time that the
spouse held a license under this act.

(c) After examination of an application for a retailer's license, the
board of county commissioners or the governing body of a city may deny a
license to a person, partnership or corporation if any manager, officer or
director thereof, or any stockholder owning in the aggregate more than
25% of the stock of such corporation, has been an officer, manager,
director or a stockholder owning in the aggregate more than 25% of the
stock, of a corporation which has:
(1) Had a retailer's license revoked under K.S.A. 41-2708, and
amendments thereto; or
(2) been convicted of a violation of the Kansas liquor control act, the
club and drinking establishment act or the cereal malt beverage laws of
this state.
(d) Retailers' licenses shall be issued either on an annual basis or for
the calendar year. If such licenses are issued on an annual basis, the board
of county commissioners or the governing body of the city shall notify the
distributors supplying the county or city on or before April 1 of the year if
a retailer's license is not renewed.
(e) In addition to, and consistent with the requirements of K.S.A. 41-
2701 et seq., and amendments thereto, the board of county commissioners
of any county or the governing body of any city may provide by resolution
or ordinance for the issuance of a special event retailers' permit which
shall allow the permit holder to offer for sale, sell and serve cereal malt
beverage for consumption on unpermitted premises, which may be open to
the public, subject to the following:
(1) A special event retailers' permit shall specify the premises for
which the permit is issued;
(2) a special event retailers' permit shall be issued for the duration of
the special event, the dates and hours of which shall be specified in the
permit;
(3) no more than four special event retailers' permits may be issued to
any one applicant in a calendar year; and
(4) a special event retailers' permit shall not be transferable or
assignable.
(f) A special event retailers' permit holder shall not be subject to the
provisions of the beer and cereal malt beverage keg registration act, K.S.A.
41-2901 et seq., and amendments thereto.
Sec. 4. K.S.A. 2011 Supp. 41-2704 is hereby amended to read as
follows: 41-2704. (a) In addition to and consistent with the requirements
of the cereal malt beverage act, the board of county commissioners of any
county or the governing body of any city may prescribe hours of closing,
standards of conduct and rules and regulations concerning the moral,
sanitary and health conditions of places licensed pursuant to this act and
may establish zones within which no such place may be located.
(b) Within any city where the days of sale at retail of cereal malt
beverage in the original package have not been expanded as provided by
K.S.A. 2011 Supp. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, and within any township where the hours and days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, no cereal malt beverages may be sold:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(c) Within any city where the days of sale at retail of cereal malt beverage in the original package have been expanded as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, and have not been subsequently restricted as provided in K.S.A. 2011 Supp. 41-2911, and amendments thereto, and within any township where the days of sale at retail of cereal malt beverage in the original package have been expanded as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, and have not been subsequently restricted as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, no person shall sell at retail cereal malt beverage:

(1) Between the hours of 12 midnight and 6 a.m.;

(2) in the original package before 12 noon or after 8 p.m. on Sunday;

(3) on Easter Sunday; or

(4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(d) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises also are licensed as a club pursuant to the club and drinking establishment act.

(e) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment
act shall be open to law enforcement officers and not to the public.

(f) Except as otherwise provided by this subsection, no licensee shall permit a person under the legal age for consumption of cereal malt beverage to consume or purchase any cereal malt beverage in or about a place of business. A licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage, if:

(1) The licensee's place of business is licensed only to sell at retail cereal malt beverage in the original package and not for consumption on the premises; or

(2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(g) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(h) Notwithstanding any provision of this section to the contrary:

(1) Cereal malt beverages may be sold on premises which are licensed pursuant to both the cereal malt beverage act and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises; and

(2) cereal malt beverages may be sold on premises which are licensed pursuant to both the cereal malt beverage act and the Kansas liquor control act at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 5. K.S.A. 2011 Supp. 41-2708 is hereby amended to read as follows: 41-2708. (a) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, may revoke or suspend the license for any one of the following reasons:

(1) The licensee has violated any of the provisions of K.S.A. 41-2701 et seq., and amendments thereto, or any rules or regulations made by the board or the city, as the case may be;

(2) drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;

(3) the sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage;

(4) permitting any person to mix drinks with materials purchased in or upon the place of business or brought in for that purpose;

(5) the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor, as defined by K.S.A. 41-102, and amendments thereto; or
(6) the licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act.

(b) The provisions of subsections (a)(4) and (a)(5) shall not apply if the place of business or premises is also are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act, or as a retailer pursuant to the Kansas liquor control act.

(c) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) the licensee has become ineligible to obtain a license under this act;

(3) the nonpayment of any license fees;

(4) permitting any gambling in or upon the licensee's place of business;

(5) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages;

(6) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; or

(7) there has been a violation of K.S.A. 21-4106 or 21-4107, prior to their repeal, or K.S.A. 2011 Supp. 21-6204, and amendments thereto, in or upon the licensee's place of business.

(d) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal.

Sec. 6. K.S.A. 41-103 and 41-308 and K.S.A. 2011 Supp. 41-102, 41-2703, 41-2704 and 41-2708 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.