

41-2906. Same; duties of cereal malt beverage retailers; violations; penalties; duties of secretary; rules and regulations.

(a) Prior to the sale by a retailer or a retailer's employee or agent of any cereal malt beverage in a container having a liquid capacity of four or more gallons, the retailer or the retailer's employee or agent shall affix to the cereal malt beverage container a keg identification number or otherwise uniquely identify the container in accordance with rules and regulations adopted by the secretary. At the time of sale of any such container of cereal malt beverage, the retailer, or the retailer's employee or agent, shall record the keg number; the date of the sale; the purchaser's name and address; and the number on the purchaser's driver's license, Kansas nondriver's identification card or other official or apparently official document that reasonably appears to contain both the purchaser's picture and the purchaser's signature, which shall be exhibited at the time of sale. Such record shall be kept by the retailer at the premises where the sale was made. Such record shall be kept by the retailer until the container is returned or until the expiration of six months following the date of the sale.

(b) For the purpose of investigating a violation of laws prohibiting the furnishing to or possession or consumption of cereal malt beverage by persons under the legal age for consumption of cereal malt beverage and if such violation involves a container required to be registered under the beer and cereal malt beverage keg registration act and if there is reason to believe that such retailer sold such container, such retailer's records relating to the sale of such container which are required to be kept by this section shall be available for inspection by any law enforcement officer during normal business hours. Records required to be kept by this section shall not be available for inspection or use or subject to subpoena in any civil or administrative action or criminal prosecution other than a civil or administrative action or criminal prosecution relating to a specific violation of this section or K.S.A. 21-3610, prior to its repeal, or subsection (a) of K.S.A. 2014 Supp. 21-5607, and amendments thereto, or K.S.A. 41-727, and amendments thereto. Except as specifically provided by this subsection, records required to be kept by this section shall not be sold, distributed or otherwise released to any person other than an agent of the retailer or to a law enforcement agency.

(c) Upon a determination that a retailer or a retailer's employee or agent has violated this section or any rules and regulations adopted pursuant to this section, the board of county commissioners or the governing body of the city may suspend or revoke the retailer's license in the manner provided by K.S.A. 41-2708, and amendments thereto, and may impose a fine pursuant to K.S.A. 41-2711, and amendments thereto.

(d) It is a class B nonperson misdemeanor for a person who is not a retailer acting in the ordinary course of business to: (1) Remove from a cereal malt beverage container all or part of a keg identification number required pursuant to this section; (2) make unreadable all or any part of a keg identification number required by this section to be affixed to a cereal malt beverage container; or (3) possess a cereal malt beverage container required to be registered under this act that does not have the keg identification number required by this section.

(e) The secretary of revenue shall adopt any rules and regulations necessary to implement the provisions of this section. Such rules and regulations shall include, but shall not be limited to, provisions relating to records and establishing standards for marking and handling containers which are required to be registered by this act.

(f) The secretary of revenue shall provide any keg identification tags or labels required by this act. There shall be no charge for such tags or labels. Such tags or labels shall be designed so that when affixed to a keg, such tags or labels do not mar or otherwise damage the keg.

(g) If a person sold cereal malt beverage in compliance with the provisions of this section and any rules and regulations adopted pursuant thereto, it shall be a defense to any criminal prosecution or proceeding or civil or administrative action under this section.

(h) Words and phrases used in this section shall have the meaning ascribed thereto by K.S.A. 41-2701, and amendments thereto.

History: L. 2002, ch. 44, § 6; L. 2008, ch. 126, § 12; L. 2011, ch. 30, § 185; July 1.