

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **HB 2088**, on page 1, following line 34, by inserting:

"New Sec. 2. (a) No form of powdered alcohol shall be sold or offered for sale by any person licensed under the Kansas liquor control act.

(b) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 3. K.S.A. 2014 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, microdistillery or a farm winery.

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

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

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

(s) "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.

(t) "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.

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

(v) "Powdered alcohol" means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a nonalcoholic liquid.

~~(v)~~(w) "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.

~~(w)~~(x) (1) "Retailer" means a person who sells at retail, or offers for sale at retail, alcoholic liquors.

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

~~(x)~~(y) "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.

~~(y)~~(z) "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.

~~(z)~~(aa) "Secretary" means the secretary of revenue.

~~(aa)~~(bb) (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.

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

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

~~(dd)~~(ee) "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.

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

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

~~(gg)~~ (hh) "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. 4. K.S.A. 2014 Supp. 41-2640 is hereby amended to read as follows: 41-2640. (a) No club, drinking establishment, caterer or holder of a temporary permit, nor any person acting as an employee or agent thereof, shall:

- (1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;
- (2) offer or serve to any person an individual drink at a price that is less than the acquisition cost of the individual drink to the licensee or permit holder;
- (3) sell, offer to sell or serve to any person an unlimited number of individual drinks during any set period of time for a fixed price, except at private functions not open to the general public or to the general membership of a club;
- (4) encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or cereal malt beverage or the awarding of individual drinks as prizes;
- (5) sell, offer to sell or serve free of charge any form of powdered alcohol, as defined in K.S.A. 41-102, and amendments thereto; or
- ~~(5)~~ (6) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (a)(1) through ~~(4)~~ (5).

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

- (1) Offer or serve any free cereal malt beverage or alcoholic liquor in any form to any person;
- (2) offer or serve to any person a drink or original container of alcoholic liquor or cereal malt beverage at a price that is less than the acquisition cost of the drink or original container of alcoholic liquor or cereal malt beverage to the licensee;

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

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

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

(6) sell, offer to sell or serve free of charge any form of powdered alcohol, as defined in K.S.A. 41-102, and amendments thereto; or

~~(6)~~ (7) advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under subsections (b)(1) through ~~(5)~~ (6).

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

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

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

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

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

(5) offer samples of alcohol liquor free of charge as authorized by this act; or

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

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

the drink.

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

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

(g) Violation of any provision of this section shall be grounds for suspension or revocation of the licensee's license as provided by K.S.A. 41-2609, and amendments thereto, and for imposition of a civil fine on the licensee or temporary permit holder as provided by K.S.A. 41-2633a, and amendments thereto.";

Also on page 1, in line 35, by striking "is" and inserting "and K.S.A. 2014 Supp. 41-102 and 41-2640 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after the semicolon by inserting "relating to sales of powdered alcohol"; also in line 2, after "41-106" by inserting "and K.S.A. 2014 Supp. 41-102 and 41-2640"; in line 3, by striking "section" and inserting "sections"

_____ District.