

## HOUSE BILL No. 2208

By Committee on Federal and State Affairs

2-3

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1 AN ACT concerning alcoholic beverages; prohibiting the sale of powdered  
2 alcohol; amending K.S.A. 2014 Supp. 41-102 and 41-2640 and  
3 repealing the existing sections.

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

6 New Section 1. (a) No form of powdered alcohol shall be sold or  
7 offered for sale by any person licensed under the Kansas liquor control act.

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

10 Sec. 2. K.S.A. 2014 Supp. 41-102 is hereby amended to read as  
11 follows: 41-102. As used in this act, unless the context clearly requires  
12 otherwise:

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

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

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

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

27 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-  
28 2701, and amendments thereto.

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

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

33 (h) "Distributor" means the person importing or causing to be  
34 imported into the state, or purchasing or causing to be purchased within  
35 the state, alcoholic liquor for sale or resale to retailers licensed under this  
36 act or cereal malt beverage for sale or resale to retailers licensed under

1 K.S.A. 41-2702, and amendments thereto.

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

4 (j) "Domestic fortified wine" means wine which contains more than  
5 14%, but not more than 20% alcohol by volume and which is  
6 manufactured in this state.

7 (k) "Domestic table wine" means wine which contains not more than  
8 14% alcohol by volume and which is manufactured without rectification or  
9 fortification in this state.

10 (l) "Drinking establishment" has the meaning provided by K.S.A. 41-  
11 2601, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

42 (v) *"Powdered alcohol" means alcohol that is prepared in a*  
43 *powdered or crystal form for either direct use or for reconstitution in a*

1 *nonalcoholic liquid.*

2 ~~(v)~~ (w) "Primary American source of supply" means the  
3 manufacturer, the owner of alcoholic liquor at the time it becomes a  
4 marketable product or the manufacturer's or owner's exclusive agent who,  
5 if the alcoholic liquor cannot be secured directly from such manufacturer  
6 or owner by American wholesalers, is the source closest to such  
7 manufacturer or owner in the channel of commerce from which the  
8 product can be secured by American wholesalers.

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

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

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

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

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

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

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

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

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

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

3       ~~(ff)~~ *(gg)* "Temporary permit" has the meaning provided by K.S.A. 41-  
4 2601, and amendments thereto.

5       ~~(gg)~~ *(hh)* "Wine" means any alcoholic beverage obtained by the  
6 normal alcoholic fermentation of the juice of sound, ripe grapes, fruits,  
7 berries or other agricultural products, including such beverages containing  
8 added alcohol or spirits or containing sugar added for the purpose of  
9 correcting natural deficiencies.

10       Sec. 3. K.S.A. 2014 Supp. 41-2640 is hereby amended to read as  
11 follows: 41-2640. (a) No club, drinking establishment, caterer or holder of  
12 a temporary permit, nor any person acting as an employee or agent thereof,  
13 shall:

14       (1) Offer or serve any free cereal malt beverage or alcoholic liquor in  
15 any form to any person;

16       (2) offer or serve to any person an individual drink at a price that is  
17 less than the acquisition cost of the individual drink to the licensee or  
18 permit holder;

19       (3) sell, offer to sell or serve to any person an unlimited number of  
20 individual drinks during any set period of time for a fixed price, except at  
21 private functions not open to the general public or to the general  
22 membership of a club;

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

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

28       ~~(5)~~ (6) advertise or promote in any way, whether on or off the  
29 licensed premises, any of the practices prohibited under subsections (a)(1)  
30 through ~~(4)~~ (5).

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

33       (1) Offer or serve any free cereal malt beverage or alcoholic liquor in  
34 any form to any person;

35       (2) offer or serve to any person a drink or original container of  
36 alcoholic liquor or cereal malt beverage at a price that is less than the  
37 acquisition cost of the drink or original container of alcoholic liquor or  
38 cereal malt beverage to the licensee;

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

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

43       (5) encourage or permit, on the licensed premises, any game or

1 contest which involves drinking alcoholic liquor or cereal malt beverage or  
2 the awarding of drinks as prizes;

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

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

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

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

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

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

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

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

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

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

29 (e) A hotel of which the entire premises is not licensed as a drinking  
30 establishment may, in accordance with rules and regulations adopted by  
31 the secretary, through an agreement with one or more clubs or drinking  
32 establishments, distribute to its guests coupons redeemable at such clubs or  
33 drinking establishments for drinks containing alcoholic liquor. Each club  
34 or drinking establishment redeeming coupons issued by a hotel shall  
35 collect from the hotel the agreed price, which shall be not less than the  
36 acquisition cost of the drink plus the liquor drink tax for each drink served.  
37 The club or drinking establishment shall collect and remit the liquor drink  
38 tax in accordance with the provisions of the liquor drink tax act, K.S.A.  
39 79-41a01 et seq., and amendments thereto.

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

42 (g) Violation of any provision of this section shall be grounds for  
43 suspension or revocation of the licensee's license as provided by K.S.A.

1 41-2609, and amendments thereto, and for imposition of a civil fine on the  
2 licensee or temporary permit holder as provided by K.S.A. 41-2633a, and  
3 amendments thereto.

4 Sec. 4. K.S.A. 2014 Supp. 41-102 and 41-2640 are hereby repealed.

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