

As Amended by House Committee

Session of 2021

SENATE BILL No. 126

Committee on Commerce

2-2

1 AN ACT concerning alcoholic beverages; relating to the club and drinking  
2 establishment act; authorizing the sale of alcoholic liquor by class A  
3 clubs at special events; **specifying requirements for the serving of**  
4 **alcoholic beverages by licensees**; amending K.S.A. 2020 Supp. 41-  
5 2601 ~~and~~, 41-2637 **and 41-2640** and repealing the existing sections.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2020 Supp. 41-2601 is hereby amended to read as  
9 follows: 41-2601. As used in the club and drinking establishment act:

10 (a) The following terms ~~shall have the meanings~~ *mean the same as*  
11 provided by K.S.A. 41-102, and amendments thereto:

- 12 (1) "Alcoholic liquor";
- 13 (2) "director";
- 14 (3) "original package";
- 15 (4) "person";
- 16 (5) "sale"; and
- 17 (6) "to sell."

18 (b) "Beneficial interest" ~~shall~~ *does* not include any interest a person  
19 may have as owner, operator, lessee or franchise holder of a licensed hotel  
20 or motel on the premises of which a club or drinking establishment is  
21 located.

22 (c) "Caterer" means an individual, partnership or corporation ~~which~~  
23 *that* sells alcoholic liquor by the individual drink, and provides services  
24 related to the serving thereof, on unlicensed premises ~~which that~~ *that* may be  
25 open to the public, but does not include a holder of a temporary permit,  
26 selling alcoholic liquor in accordance with the terms of such permit.

27 (d) "Cereal malt beverage" ~~has the meaning~~ *means the same as*  
28 provided by K.S.A. 41-2701, and amendments thereto.

29 (e) "Class A club" means a premises ~~which that~~ *that* is owned or leased by  
30 a corporation, partnership, business trust or association ~~and which~~ *is*  
31 operated thereby as a bona fide nonprofit social, fraternal or war veterans'  
32 club, as determined by the director, for the exclusive use of the corporate  
33 stockholders, partners, trust beneficiaries or associates ~~(, hereinafter~~  
34 referred to as members), and their families and guests accompanying  
35 them, *as provided in K.S.A. 41-2637, and amendments thereto.*

36 (f) "Class B club" means a premises operated for profit by a

1 corporation, partnership or individual, to which members of such club may  
2 resort for the consumption of food or alcoholic beverages and for  
3 entertainment.

4 (g) "Club" means a class A or class B club.

5 (h) "Drinking establishment" means premises—~~which~~ *that* may be  
6 open to the general public, where alcoholic liquor by the individual drink  
7 is sold. *The term "drinking establishment" includes a railway car.*

8 (i) "Food" means any raw, cooked or processed edible substance or  
9 ingredient, other than alcoholic liquor or cereal malt beverage, used or  
10 intended for use or for sale, in whole or in part, for human consumption.

11 (j) "Food service establishment" ~~has the meaning~~ *means the same as*  
12 provided by K.S.A. 36-501, and amendments thereto.

13 (k) "Hotel" ~~has the meaning~~ *means the same as* provided by K.S.A.  
14 36-501, and amendments thereto.

15 (l) "Individual drink" means a beverage containing alcoholic liquor or  
16 cereal malt beverage served to an individual for consumption by such  
17 individual or another individual, but which is not intended to be consumed  
18 by two or more individuals. The term "individual drink" includes  
19 beverages containing not more than:

20 (1) Eight ounces of wine;

21 (2) thirty-two ounces of beer or cereal malt beverage; or

22 (3) four ounces of a single spirit or a combination of spirits.

23 (m) "Minibar" means a closed cabinet, whether nonrefrigerated or  
24 wholly or partially refrigerated, access to the interior of which is restricted  
25 by means of a locking device—~~which~~ *that* requires the use of a key,  
26 magnetic card or similar device.

27 (n) "Minor" means a person under 21 years of age.

28 (o) "Morals charge" means a charge: Involving the sale of sexual  
29 relations; procuring any person; soliciting of a child under 18 years of age  
30 for any immoral act involving sex; possession or sale of narcotics,  
31 marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal  
32 cohabitation; adultery; bigamy; or a crime against nature.

33 (p) "Municipal corporation" means the governing body of any county  
34 or city.

35 (q) "Public venue" means an arena, stadium, hall or theater, used  
36 primarily for athletic or sporting events, live concerts, live theatrical  
37 productions or similar seasonal entertainment events, not operated on a  
38 daily basis, and containing:

39 (1) Not less than 4,000 permanent seats; and

40 (2) not less than two private suites,—~~which~~ *that* are enclosed or semi-  
41 enclosed seating areas, having controlled access and separated from the  
42 general admission areas by a permanent barrier.

43 (r) "Railway car" means a locomotive drawn conveyance used for the

1 transportation and accommodation of human passengers that is confined to  
2 a fixed rail route and ~~which~~ *that* derives from sales of food for  
3 consumption on the railway car not less than 30% of its gross receipts  
4 from all sales of food and beverages in a 12-month period.

5 (s) "Restaurant" means:

6 (1) In the case of a club, a licensed food service establishment ~~which~~  
7 *that*, as determined by the director, derives from sales of food for  
8 consumption on the licensed club premises not less than 50% of its gross  
9 receipts from all sales of food and beverages on such premises in a 12-  
10 month period;

11 (2) in the case of a drinking establishment subject to a food sales  
12 requirement under K.S.A. 41-2642, and amendments thereto, a licensed  
13 food service establishment ~~which~~ *that*, as determined by the director,  
14 derives from sales of food for consumption on the licensed drinking  
15 establishment premises not less than 30% of its gross receipts from all  
16 sales of food and beverages on such premises in a 12-month period; and

17 (3) in the case of a drinking establishment subject to no food sales  
18 requirement under K.S.A. 41-2642, and amendments thereto, a licensed  
19 food service establishment.

20 (t) "RV resort" means premises where a place to park recreational  
21 vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered  
22 for pay, primarily to transient guests, for overnight or longer use while  
23 such recreational vehicles are used as sleeping or living accommodations.

24 (u) "Sample" means a serving of alcoholic liquor that contains not  
25 more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or  
26 (3) two ounces of beer or cereal malt beverage. A sample of a mixed  
27 alcoholic beverage shall contain not more than ½ ounce of distilled spirits.

28 (v) "Secretary" means the secretary of revenue.

29 (w) "Temporary permit" means a temporary permit issued pursuant to  
30 K.S.A. 2020 Supp. 41-1201, and amendments thereto.

31 Sec. 2. K.S.A. 2020 Supp. 41-2637 is hereby amended to read as  
32 follows: 41-2637. (a) A license for a class A club shall allow the licensee  
33 to:

34 (1) Offer for sale, sell and serve alcoholic liquor for consumption on  
35 the licensed premises by members and their families, and guests  
36 accompanying them; ~~and~~

37 (2) serve samples of alcoholic liquor free of charge for consumption  
38 by members and their families and guests accompanying them; *and*

39 (3) *offer for sale, sell and serve alcoholic liquor for consumption on*  
40 *the licensed premises by individuals other than those individuals specified*  
41 *in paragraph (1) during an event held in accordance with subsection (d).*

42 (b) No charge of any sort may be made for a sample serving. Samples  
43 may not be served to a minor. No samples may be removed from the

1 licensed premises. No consideration shall be requested or required for  
2 entry onto the premises, participation in any event taking place on the  
3 premises or to remain on the premises.

4 ~~(b)(c)~~ (1) Subject to the provisions of subsection ~~(b)(2)~~ (c)(2), any  
5 two or more class A or class B clubs may permit, by an agreement filed  
6 with and approved by the director, the members of each such club to have  
7 access to all other clubs ~~which~~ that are parties to such agreement. The  
8 privileges extended to the visiting members of other clubs under such an  
9 agreement shall be determined by the agreement and, if the agreement so  
10 provides, any club ~~which~~ that is a party to such agreement may sell, offer  
11 for sale and serve, to any person who is a member of another club ~~which~~  
12 that is a party to such agreement, alcoholic liquor for consumption on the  
13 licensed premises by such person and such person's family, and guests  
14 accompanying them.

15 (2) A class B club may enter into a reciprocal agreement authorized  
16 by subsection ~~(b)(1)~~ (c)(1) only if the class B club is a restaurant.

17 ~~(e)(d)~~ (1) *A licensee may offer for sale, sell and serve alcoholic*  
18 *liquor for consumption on the licensed premises by individuals other than*  
19 *members of the licensee, their families or guests during an event. The*  
20 *licensee shall provide electronic notification to the director at least 48*  
21 *hours prior to any such event. The director shall make the electronic*  
22 *notification available to local law enforcement. Such notice shall consist*  
23 *of the date, time, location and the names of the contracting parties of the*  
24 *event. The licensee shall retain all documents for a period of three years*  
25 *for inspection by the director. The documents retained shall include*  
26 *agreements, receipts and records of alcohol purchased.*

27 (2) *For purposes of this subsection, the term "event" means any*  
28 *function, occasion, celebration or other event held on the licensed*  
29 *premises for a specified duration of time and during which individuals*  
30 *who are not members of the licensee, their families or guests are permitted*  
31 *to enter and use the licensed premises pursuant to an agreement between*  
32 *the licensee and the contracting party.*

33 (e) A licensee may store on its premises wine sold to a customer for  
34 consumption at a later date on its premises in the unopened container. Such  
35 wine must be kept separate from all other alcohol stock and in a secure  
36 locked area separated by customer. Such wine shall not be removed from  
37 the licensed premises in its unopened condition.

38 **Sec. 3. K.S.A. 2020 Supp. 41-2640 is hereby amended to read as**  
39 **follows: 41-2640. (a) No club, drinking establishment, caterer or**  
40 **holder of a temporary permit, nor any person acting as an employee**  
41 **or agent thereof, shall:**

42 (1) **Offer or serve any free cereal malt beverage or alcoholic**  
43 **liquor in any form to any person;**

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

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

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

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

13       **(6) advertise or promote in any way, whether on or off the**  
14 **licensed premises, any of the practices prohibited under subsections**  
15 **(a)(1) through (5).**

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

18       **(1) Offer or serve any free cereal malt beverage or alcoholic**  
19 **liquor in any form to any person;**

20       **(2) offer or serve to any person a drink or original container of**  
21 **alcoholic liquor or cereal malt beverage at a price that is less than the**  
22 **acquisition cost of the drink or original container of alcoholic liquor or**  
23 **cereal malt beverage to the licensee;**

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

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

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

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

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

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

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

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

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

42       **(4) sell or serve beer-~~or~~, cereal malt beverage or mixed alcoholic**  
43 **beverage in a pitcher-~~capable of containing not more than 64~~ fluid**

1 ounces; *or*

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

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

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

15 **(e) (1) A public venue, club or drinking establishment may offer**  
16 **customer self-service of beer or wine, or both, from automated devices**  
17 **on licensed premises so long as the licensee monitors and has the**  
18 **ability to control the dispensing of such beer or wine, or both, from the**  
19 **automated devices.**

20 **(2) (A) For purposes of this subsection, "automated device" shall**  
21 ~~mean~~ *means* **any mechanized device capable of dispensing wine or beer,**  
22 **or both, directly to a customer in exchange for compensation that a**  
23 **licensee has received directly from the customer.**

24 **(B) No licensee shall allow an automated device to be used on its**  
25 **licensed premises without first providing written or electronic**  
26 **notification to the director of the licensee's intent to use the automated**  
27 **device. The licensee shall provide this notification at least 48 hours**  
28 **before any automated device is used on the licensed premises.**

29 **(C) Each licensee offering customer self-service of wine or beer,**  
30 **or both, from any automated device shall provide constant video**  
31 **monitoring of the automated device at all times during which the**  
32 **licensee is open to the public. The licensee shall keep recorded footage**  
33 **from the video monitoring for at least 60 days and shall provide the**  
34 **footage, upon request, to any agent of the director or other authorized**  
35 **law enforcement agent.**

36 **(D) The compensation required by subsection (a) shall be in the**  
37 **form of a programmable, prepaid access card containing a fixed**  
38 **amount of monetary credit that may be directly exchanged for beer or**  
39 **wine dispensed from the automated device. Access cards may be sold,**  
40 **used or reactivated only during a business day. Each access card shall**  
41 **be purchased from the licensee by a customer. A licensee shall not**  
42 **issue more than one active access card to a customer. For purposes of**  
43 **this subsection, an access card shall be deemed active if the access**

1 card contains monetary credit or has not yet been used to dispense 15  
2 ounces of wine or 32 ounces of beer. Each purchase of an access card  
3 under this subparagraph shall be subject to the liquor drink tax  
4 imposed by K.S.A. 79-41a02, and amendments thereto.

5 (E) In order to obtain a prepaid access card from a licensee, each  
6 customer shall produce a valid driver's license, identification card or  
7 other government-issued document that contains a photograph of the  
8 individual and demonstrates that the individual is at least 21 years of  
9 age. Each access card shall be programmed to require the production  
10 of the customer's valid identification before the access card can be  
11 used for the first time during any business day or for any subsequent  
12 reactivation as provided in subparagraph (D).

13 (F) Each access card shall become inactive at the end of each  
14 business day.

15 (G) Each access card shall be programmed to allow the  
16 dispensing of no more than 15 ounces of wine or 32 ounces of beer to a  
17 customer. Once an access card has been used to dispense 15 ounces of  
18 wine or 32 ounces of beer to a customer, the access card shall become  
19 inactive. Any customer in possession of an inactive access card may,  
20 upon production of the customer's valid identification to the licensee  
21 or licensee's employee, have the access card reactivated to allow the  
22 dispensing of an additional 15 ounces of wine or 32 ounces of beer  
23 from an automated device.

24 Subparagraph (D), (E), (F) or (G) shall not apply to wine or beer  
25 that is dispensed directly to the licensee or the licensee's agent or  
26 employee.

27 (3) The secretary shall adopt rules and regulations prior to  
28 January 1, 2019, as necessary to implement the provisions of this  
29 subsection.

30 (4) Notwithstanding any other provision of law, all laws and rules  
31 and regulations applicable to the sale of alcoholic liquor to persons  
32 under the legal age of consumption shall be applicable to the sales  
33 transaction of the prepaid access card.

34 (f) A hotel of which the entire premises is not licensed as a  
35 drinking establishment may, in accordance with rules and regulations  
36 adopted by the secretary, through an agreement with one or more  
37 clubs or drinking establishments, distribute to its guests coupons  
38 redeemable at such clubs or drinking establishments for drinks  
39 containing alcoholic liquor. Each club or drinking establishment  
40 redeeming coupons issued by a hotel shall collect from the hotel the  
41 agreed price, which shall be not less than the acquisition cost of the  
42 drink plus the liquor drink tax for each drink served. The club or  
43 drinking establishment shall collect and remit the liquor drink tax in

1 accordance with the provisions of the liquor drink tax act, K.S.A. 79-  
2 41a01 et seq., and amendments thereto.

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

5 (h) Violation of any provision of this section shall be grounds for  
6 suspension or revocation of the licensee's license as provided by K.S.A.  
7 41-2609, and amendments thereto, and for imposition of a civil fine on  
8 the licensee or temporary permit holder as provided by K.S.A. 41-  
9 2633a, and amendments thereto.

10 (i) For the purposes of this section, ~~the term:~~

11 (1) "Day" means from 6:00 a.m. until 2:00 a.m. the following  
12 calendar day;

13 (2) "mixed alcoholic beverage" means a beverage that is made by  
14 combining alcoholic liquor with a non-alcoholic liquid or other edible  
15 substance and that is comprised of at least 25% of non-alcoholic liquid or  
16 other edible substance, including, but not limited to, margarita, sangria,  
17 daiquiri or mojito; and

18 (3) "pitcher" means any container that is capable of containing more  
19 than 32 fluid ounces but not more than 64 fluid ounces that is used to  
20 serve alcoholic liquor or cereal malt beverage to one or more individuals.

21 Sec. ~~3~~ 4. K.S.A. 2020 Supp. 41-2601 ~~and~~, 41-2637 and 41-2640 are  
22 hereby repealed.

23 Sec. ~~4~~ 5. This act shall take effect and be in force from and after its  
24 publication in the statute book.